

Deposition of:
Commander Suzanne Curmode

September 28, 2017

DALE PHILLIPS

v.

KAREN BLAIR, et al.

Case No. 2:16-CV-880



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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION

5 _____)
6 DALE PHILLIPS,)
7 Plaintiff,)
8 vs.) CASE NO.
9 KAREN BLAIR, et al.,) 2:16-CV-880
10 Defendants.)
_____)

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15 Deposition of: COMMANDER SUZANNE CURMODE

16 Pursuant to: Notice

17 Date and Time: Thursday, September 28, 2017

9:05 a.m. 666½ S. Galveston

18 Place: Office of Columbia
City Attorney

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3 COMMANDER SUZANNE CURMODE PAGE

4 EXAMINATION BY MS. BRATTON 4

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7 EXHIBITS MARKED REFERENCED

8 PLAINTIFF'S EXHIBIT 2 - 54

PLAINTIFF'S EXHIBIT 3 - 56

9 PLAINTIFF'S EXHIBIT 10 - 30

PLAINTIFF'S EXHIBIT 33 21 21

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1 COMMANDER SUZANNE CURMODE

2 a witness herein, having been duly sworn, was
3 examined and deposed as follows:

4 EXAMINATION

5 BY MS. BRATTON:

6 Q. Good morning.

7 A. Morning.

8 Q. Could you please state your name for
9 the record?

10 A. It's Suzanne Marie Curmode.

11 Q. Okay. And what is your position with
12 the Columbus Police Department?

13 A. I'm a police commander.

14 Q. Okay. Can you, Commander Curmode,
15 spell your last name?

16 A. It's C-u-r-m-o-d-e.

17 Q. Okay. Thank you.

18 Have you ever had your deposition taken
19 before?

20 A. Yes.

21 Q. Okay. So you know to answer out loud.
22 Kind of like trial, no uh-huhs or uh-uhs, and
23 I'll try to remind you. And sometimes I may do
24 it, too.

25 A. Okay.

1 Q. If you don't understand something, the
2 question is too long or convoluted, just let me
3 know and I'll restate it.

4 If you remember something later on in
5 the deposition from a prior question, just let me
6 know and we'll go back to it to make sure that
7 the record is clear.

8 And if you need a break, just let me
9 know. Then I'll just ask that we finish the
10 question that we're on and then take a break.

11 Is there any reason today that -- for
12 medication or distractions that would impair your
13 ability to concentrate?

14 A. No.

15 Q. And have you looked at any
16 depositions -- not depositions. Have you looked
17 at any documents in preparation for your
18 deposition today?

19 A. No.

20 Q. And did you -- so you didn't look at
21 any of the use of force?

22 A. No.

23 Q. Okay. And what about any video or
24 audio?

25 A. No.

1 Q. Okay. And other than your attorney,
2 have you talked to anybody about the incident
3 involving Dale Phillips?

4 A. No.

5 Q. And while the investigation was
6 pending, who did you talk to?

7 A. I don't remember.

8 Q. And instead of asking you about
9 personal information, we'll go through your
10 counsel in the event we need you for trial.

11 A. Okay.

12 Q. And do you have -- or how long have you
13 been with City of Columbus?

14 A. Thirty-three years.

15 Q. And is that your only law enforcement,
16 or were you with law enforcement prior to joining
17 Columbus?

18 A. No, it's my only one.

19 Q. What about military experience?

20 A. No military.

21 Q. And education?

22 A. I have a bachelor's degree from The
23 Ohio State University in social work.

24 Q. Okay. And how long have you been a
25 commander?

1 A. Seventeen years. Almost 17 years,
2 yes.

3 Q. Can you explain to me how you started
4 and rose up the ranks?

5 A. Right. I came on in 1984, was an
6 officer, got promoted as sergeant approximately
7 four years after that; got promoted to lieutenant
8 a few years after that, maybe three years after
9 that; and then commander in 2001, early 2001.

10 Q. Okay. And were all of the positions in
11 patrol like sergeant of patrol or lieutenant?

12 A. No; different places.

13 Q. And what were the -- I guess, are they
14 departments or --

15 A. Bureaus, units, yes.

16 Q. Okay.

17 A. Worked South End patrol; worked in
18 narcotics bureau; worked in SCAT, which was a
19 juvenile task force bureau; strategic response
20 bureau is my current assignment; and a couple
21 different areas in patrol --

22 Q. Okay.

23 A. -- and patrol admin section.

24 Q. Okay.

25 A. I think that's it.

1 Q. Okay. And what were your duties as
2 commander, as of September 2014?

3 A. September 2014, I was commander of the
4 strategic response bureau.

5 Q. Okay. And that's where you're at now,
6 correct?

7 A. Yes.

8 Q. Okay. And what are your duties as
9 commander?

10 A. I have various units assigned to me,
11 community liaison officers, school resource,
12 different units. And I'm the commander of that
13 unit. I've got lieutenants and sergeants and
14 maybe a hundred-and-some officers, 120 officers.

15 Q. Okay. And at what point do you get
16 involved in investigations of your officers?

17 A. It depends on the investigation.

18 Q. Okay. And what kind of investigations
19 do you conduct of the officers?

20 A. Okay. I'm not sure I understand
21 exactly what you're asking.

22 Q. So if -- you said it depends on the
23 investigation what your involvement is.

24 A. Right.

25 Q. So would there be like an internal or

1 something that you happen upon -- happen upon or
2 a citizen complaint?

3 I guess the proper question would be,
4 how do complaints come to you?

5 A. Well, we have chain of command.

6 Complaints would go, typically, through the
7 internal affairs bureau. And we have a chain of
8 command, and certain things do come to the
9 commander level --

10 Q. Okay.

11 A. -- for disposition or for a
12 recommendation. Some do not.

13 Q. Okay.

14 A. Some are handled at lower levels. It
15 depends on the circumstances and the situation.

16 Q. Okay. And have you had the occasion to
17 investigate whether an officer -- whether any of
18 your officers made constitutional stops and
19 detentions?

20 MS. LLOYD: Objection as to form.

21 BY MS. BRATTON:

22 Q. You can answer. If there's an
23 objection, unless she directs you not to answer,
24 you can --

25 A. I guess the word investigate, I -- I

1 don't do the investigation. I would read and
2 review and recommend.

3 Q. Okay. If you read -- have you ever had
4 the occasion to read and review an investigation
5 and ask for further investigation?

6 A. At times.

7 Q. Okay. So I guess, then, have you ever
8 read and reviewed an investigation of a stop and
9 detention that a citizen alleged to be
10 unconstitutional?

11 MS. LLOYD: Again, objection as to
12 form, and as to what the investigation could
13 be.

14 Again, maybe I'm not being clear, but I
15 think we've already had testimony as to what
16 internal investigations are. And I believe
17 you're mischaracterizing what an internal
18 investigation could be.

19 BY MS. BRATTON:

20 Q. You all teach your officers about
21 constitutional stops, is that correct, in the law
22 training?

23 A. Officers have constitution and legal
24 training in the academy and community service,
25 yes.

1 Q. Okay. So do you have the occasion to
2 look at investigations when a citizen -- to
3 review an investigation when a citizen has made a
4 complaint that they have been stopped in
5 violation of their constitutional rights?

6 MS. LLOYD: Again -- I'm going to
7 object, once again, to the extent that we've
8 already had testimony as to what an internal
9 police investigation could be and that it is
10 not a -- well, again, I think you know what
11 I'm talking about.

12 MS. BRATTON: No, I don't.

13 MS. LLOYD: Okay. We've had testimony,
14 much testimony, in this case from internal
15 affairs that an internal police
16 investigation is not an investigation as to
17 whether or not the constitution has been
18 violated.

19 MS. BRATTON: There was testimony from
20 Johnson that internal affairs can
21 investigate whether or not an officer
22 stopped a person -- he did not use the word
23 constitutional --

24 MS. LLOYD: Right.

25 MS. BRATTON: -- but -- but it's --

1 according to their training, from the
2 constitution, you just can't stop a random
3 person walking down the street. And he
4 specifically said that -- well, I'm not --
5 I'm not going to argue with you.

6 BY MS. BRATTON:

7 Q. If you can understand the question, you
8 can answer it.

9 A. I don't understand.

10 Q. Okay. You -- officers are trained to
11 know when they can or cannot stop someone; is
12 that correct?

13 A. Yes.

14 Q. Okay. And that is in the law training,
15 the legal training that officers are given,
16 correct?

17 A. Yes.

18 Q. Okay. And that legal training is
19 updated as, I guess, case -- or as cases come
20 out, you all get updates, correct?

21 A. Yes.

22 Q. And what is that -- when you all are
23 trained on it, what are your trainings
24 surrounding stops and detentions, as far as the
25 legal training?

1 MS. LLOYD: Again, objection as to
2 form.

3 A. Okay. I don't understand exactly what
4 you're asking.

5 BY MS. BRATTON:

6 Q. What are officers trained what they can
7 or cannot do, or their limits, when they're
8 stopping a citizen?

9 MS. LLOYD: Objection as to form.

10 A. I don't personally conduct the
11 training. Our legal bureau does the updates on
12 case law, Supreme Court decisions, that kind of
13 thing. And they receive those updates on a
14 regular basis.

15 So I don't know if that answers your
16 question or not.

17 BY MS. BRATTON:

18 Q. I -- do you participate in the
19 trainings?

20 A. We -- everyone sworn does training,
21 yes.

22 Q. Okay. And when you participate in
23 those trainings, what are you taught -- even
24 though you're not doing the training, what are
25 you taught about your ability to stop a

1 citizen?

2 MS. LLOYD: Objection as to form.

3 A. Can you rephrase it? I don't really --

4 BY MS. BRATTON:

5 Q. Yes.

6 A. -- understand exactly what you're
7 asking.

8 Q. Uh-huh.

9 A. Your phrasing is kind of --

10 Q. Are you able to stop anyone who you
11 want for any reason that you want?

12 A. No --

13 Q. Okay.

14 A. -- you cannot.

15 Q. And so what would be a lawful reason
16 than an officer can stop an individual citizen
17 walking down the street?

18 A. You have to have some type of
19 reasonable suspicion that -- an investigative
20 type of detention or that some type of criminal
21 activity is afoot.

22 Q. Okay. And what about for a lawful
23 detention?

24 A. Same -- same type of thing. You have
25 to have some reasonableness that something is

1 up.

2 Q. Okay. And if a citizen complains that
3 their stop and detention is not lawful and that
4 is investigated --

5 A. Yes.

6 Q. -- have you had the opportunity to
7 review cases such as that?

8 MS. LLOYD: Again, objection as to
9 form.

10 And I think I can make this easier and
11 clearer. Based on all the testimony we've
12 already had and all the investigative
13 material that you already have, the division
14 of police, they're not judges in our courts.
15 They don't make decisions of law. Internal
16 affairs is investigating whether or not
17 divisional policy was violated.

18 That's the confusion that we're having
19 here. Because they're not judges.

20 BY MS. BRATTON:

21 Q. Your policy is based off of the law,
22 correct?

23 A. Yes.

24 Q. Okay. So I'm asking you, then, you
25 consider if something is a proper stop or not

1 based off of whether your officers are violating
2 someone's rights?

3 A. We look at policy --

4 Q. Okay. So we'll go to policy then.

5 A. -- our policies.

6 Q. So have you had the opportunity to
7 review whether someone's actions were in
8 violation of policy regarding stopping and
9 detaining a person?

10 A. I've had investigations over the years
11 that talk about a legal detention or the --
12 whether a detention should or shouldn't have
13 been.

14 Q. Okay. And when you say, a legal
15 detention, what do you determine to be a legal
16 detention?

17 A. Like I said, based on reasonableness
18 that the criminal activity did or didn't, or so
19 some type of investigative information --

20 Q. Okay.

21 A. -- is -- the totality of the
22 circumstances.

23 Q. Okay. And so you do look at, then, a
24 legal standard when you make that
25 determination?

1 MS. LLOYD: Again, objection as to
2 form.

3 A. I look at the policies that we have.

4 BY MS. BRATTON:

5 Q. Okay. Well, I'm just using your words.
6 You said legal. So I'm just asking whether or
7 not you consider the legality of something --

8 MS. LLOYD: Again, objection as to
9 form, asked and answered.

10 A. Oh, you want me to answer it?

11 BY MS. BRATTON:

12 Q. Yeah.

13 A. The legality of it?

14 Of course we look at the legality of
15 policies -- our policies. That's our big thing,
16 is with our policies.

17 Q. Okay. And when you look at a --
18 whether or not a stop and detention is within
19 policy, how do you -- I guess, let me rephrase
20 that.

21 Does that complaint -- a complaint
22 regarding a stop and detention, would that come
23 to you through internal or through the officer's
24 normal chain of command?

25 A. If someone makes a complaint, it goes

1 to internal affairs.

2 Q. Okay. And are you in the chain of
3 command for internal affairs?

4 A. No.

5 Q. Okay. So how would a case, then, get
6 to you, to your chain of command, for an
7 officer -- for cases that you've reviewed, that
8 deal with stops and detentions?

9 MS. LLOYD: Objection as to form.

10 A. It could come in a variety of ways. If
11 it's a stop and detention, it could come through
12 the chain of command. It could come through
13 internal affairs if it was made out of a citizen
14 complaint. It could come in different --
15 different ways.

16 BY MS. BRATTON:

17 Q. Okay. If it goes through internal
18 affairs --

19 A. Yes.

20 Q. -- you're not involved in that
21 complaint process; is that an accurate
22 statement?

23 A. I'm not sure what you're saying.

24 Q. If a citizen makes a complaint to
25 internal affairs --

1 A. Uh-huh. Yes.

2 Q. -- about an officer in your chain of
3 command --

4 A. Right.

5 Q. -- the internal affairs chain of
6 command handles that complaint?

7 A. Yes.

8 Q. Okay. So then that complaint wouldn't
9 come to you?

10 A. It would come to me -- after internal
11 affairs investigates it, it would come through my
12 chain of command.

13 Q. Okay. So it goes through internal
14 chain of command. Once they make a -- is it like
15 a recommendation?

16 A. They do an investigation.

17 Q. Okay. And then after they do the
18 investigation, then it comes to you for approval
19 or review?

20 A. It would go to my chain of command,
21 yes.

22 Q. Okay.

23 A. It would go down the chain of command
24 for review.

25 Q. Okay. And is that the same for use of

1 force, if an officer is alleged of using
2 excessive force, more force than necessary?

3 A. If it goes to internal affairs as a
4 citizen complaint, yes; same process. It would
5 come down the chain of command after they
6 investigate it.

7 Q. Okay. And as commander, are you the
8 final decision-maker on the levels of force -- or
9 on the use of force by your officers?

10 A. There's a continuum of force. It
11 depends on which force --

12 Q. Okay.

13 A. -- you're asking about.

14 Q. And which level of the continuum would
15 you be the final decision-maker on?

16 A. The final decision-maker would be on
17 uses of mace.

18 Q. Okay.

19 A. And that would be it.

20 The rest go to -- after my level, it
21 would go to the deputy chief.

22 Q. Okay. So then I -- would yours be
23 level -- mace is level 2 use of force, correct?

24 A. Yes.

25 Q. Okay. So then your chain of command --

1 you're the final decision-maker for level
2 0 to 2 uses of force?

3 A. Yes.

4 Q. Okay. All right.

5 (Deposition Exhibit 33 was marked for
6 identification.)

7 BY MS. BRATTON:

8 Q. I'll give you what's been marked as
9 Exhibit 33. And is this your signature on the
10 second line, where it says, Forward to Commander
11 Suzanne Curmode?

12 A. Yes.

13 Q. Okay. And you found that the
14 level 2 use of mace was within policy; is that
15 correct?

16 A. Yes. That's what I have down here,
17 yes.

18 Q. Okay. And can you tell me what your
19 process of review was to get to that
20 conclusion?

21 A. Well, the -- this is the routing sheet
22 to the investigation, so I'm certain I reviewed
23 the investigation that was attached to this.

24 Q. Okay. If -- I'm sorry. You said that
25 you would have reviewed the investigation?

1 A. Yes, that would have been attached to
2 the routing sheet.

3 Q. Okay.

4 A. These are routing sheets. But you
5 probably know that. These are routing sheets.

6 Q. Yes.

7 And when you review an investigation,
8 do you listen to the tapes and review the
9 audio?

10 A. If there's some available, yes.

11 Q. Okay. And do you ask follow-up
12 questions if necessary?

13 A. If I feel they're needed, yes.

14 Q. Okay. And do you remember asking any
15 follow-up questions of any of the officers
16 involved with Mr. Phillips?

17 A. No, I don't remember.

18 Q. Okay. Could you have?

19 A. Could I have asked the officers?

20 Q. Yes.

21 A. If I had a follow-up question, I would
22 go with the chain of command. I would send it
23 back to the lieutenant to do the follow-up. And
24 he would, in turn, go to who he needed to go to
25 to get any follow-up clarifications or answers.

1 Q. Okay. And did you do that?

2 A. I don't remember.

3 Q. Okay. And how many officers are you
4 responsible for reviewing their use of force?

5 A. Anyone who works for me, is in my chain
6 of command, I would be responsible for reviewing
7 it. So currently a little over a hundred,
8 110 maybe.

9 Q. Okay. And do you know the statistics
10 on the use of force for the Columbus police
11 department?

12 A. No.

13 Q. Do you review those numbers at all as
14 part of your job?

15 MS. LLOYD: Objection as to form.

16 A. No.

17 BY MS. BRATTON:

18 Q. Okay. And are you aware whether or not
19 there is any documents that detail use of force
20 by officers?

21 MS. LLOYD: Objection as to form.

22 A. Internal affairs, I believe, does
23 reports, documenting just different circumstances
24 on various levels of force.

25 BY MS. BRATTON:

1 Q. Okay.

2 A. I think that's part of their job.

3 Q. Okay. And when you review the use of
4 force, are you looking for whether the officer
5 was acting within policy and training?

6 A. Yes.

7 Q. And as part of your review, do you also
8 look to see if the policies in training are as
9 clear as they can be?

10 MS. LLOYD: Objection as to form.

11 A. No.

12 BY MS. BRATTON:

13 Q. Okay. Do you recall a Department of
14 Justice review of the Columbus police department
15 in the 2000s?

16 A. I recall it.

17 Q. Okay. And were you on the force at
18 that time?

19 A. Yes.

20 Q. Okay. And has there been any changes
21 in the police force since that review that you've
22 experienced when it comes to use of force?

23 MS. LLOYD: Objection as to form.

24 A. I'm not responsible for the policies
25 governing those areas. Our policies change, not

1 all the time, but they do change in response to
2 different things. So I don't feel I can really
3 answer what came out of that or what didn't come
4 out of that.

5 BY MS. BRATTON:

6 Q. Okay. What about any training that has
7 been different?

8 MS. LLOYD: Objection as to form.

9 A. We're constantly doing training,
10 service training updates, manual training.

11 BY MS. BRATTON:

12 Q. Do you know if any of that training is
13 different than prior to the Department of Justice
14 report?

15 A. I can't answer that.

16 Q. You can't answer because you don't
17 know?

18 A. I -- that's not my area of expertise,
19 of what training has changed and what reason. I
20 don't work there, in that area.

21 Q. Do you know -- you -- you participate
22 in the trainings, though, correct? You have to
23 be trained?

24 A. Everyone is -- in-service training,
25 yes.

1 Q. Okay. Based on your training, has
2 anything changed from the time that -- in your
3 training, that that report came out to now?

4 MS. LLOYD: Again, objection as to
5 form, asked and answered.

6 A. I don't know.

7 BY MS. BRATTON:

8 Q. So I'm not asking if anything changed
9 in response to it. I'm just asking, from the
10 time it came out to September of 2014, did any of
11 your training change, for whatever reason?

12 A. I don't remember time frames of
13 training. We get -- we've gotten Tasers over the
14 years. I don't know exact time frame of that.

15 So things change.

16 Q. Okay.

17 A. Whether it was pursuant to a certain
18 event or a certain thing, I can't answer that.

19 Q. Okay. And officers are required to
20 follow the constitutional standards for use of
21 force, correct?

22 A. We follow our policies, yes.

23 Q. Okay. And do you expect your officers
24 to do that?

25 A. To follow policy?

1 Q. Yes.

2 A. Yes.

3 Q. And this means that they have to comply
4 with the Fourth Amendment standard on use of
5 force?

6 A. Yes.

7 Q. Okay. And are your officers taught
8 what that standard is?

9 A. Yes.

10 Q. And when are they permitted to use
11 force?

12 MS. LLOYD: Objection as to form.

13 A. They're -- they're not to desist in
14 doing their police work because someone offers
15 resistance. So they could use force -- it's
16 circumstantial, based on the suspect's actions,
17 aggressiveness, the totality of the situation,
18 severity of the crime. There's various factors
19 that come into play when an officer decides to do
20 that.

21 Reasonableness is probably a big part
22 of it --

23 BY MS. BRATTON:

24 Q. Okay.

25 A. -- if not the main part.

1 Q. And when would an officer be able to
2 use level 2 force --

3 MS. LLOYD: Objection as to form.

4 BY MS. BRATTON:

5 Q. -- on a suspect?

6 A. Level 2 use of mace -- again, it's kind
7 of what I just said, to control a resistive or
8 combative suspect, to protect others, to protect
9 the officers, to protect the suspect, kind of
10 like what I just answered to.

11 Q. Okay. Do your officers have
12 de-escalation training, or is -- let me say this.
13 Are officers trained in de-escalation
14 techniques?

15 A. I'm not sure what you mean by
16 de-escalation techniques.

17 Q. Are officers trained not to,
18 themselves, escalate a situation with a compliant
19 individual, suspect, or anyone who they stop?

20 MS. LLOYD: Objection to form.

21 A. Trained to not -- not escalate
22 something?

23 BY MS. BRATTON:

24 Q. Yes.

25 A. I -- I don't think that the training to

1 not -- I don't know if you're -- I'm not sure
2 exactly what you're -- how you're asking this.
3 If you can clarify it, maybe, for me.

4 Q. Yes.

5 If someone is fully compliant, are
6 officers trained that they can still use physical
7 force on the person?

8 MS. LLOYD: Objection as to form, asked
9 and answered.

10 A. If someone's fully compliant, one, the
11 reason probably would not exist to use the force
12 on them.

13 BY MS. BRATTON:

14 Q. Okay. And when you are reviewing use
15 of force, what is policy that you're comparing
16 the officer's use of force to in making a
17 reasonableness determination?

18 A. I'm not sure what you mean. I'm
19 sorry.

20 Q. When you determine that the use of
21 force used in whatever situation --

22 A. Right.

23 Q. -- you're reviewing was reasonable or
24 within policy --

25 A. Uh-huh.

1 Q. -- what policies are you looking to to
2 make that determination?

3 A. We've got a couple different ones
4 that --

5 Q. Okay.

6 A. -- govern the issue. There's a main
7 use-of-force policy that are covered in the
8 division directives that govern conduct. So
9 there's a couple different ones that apply to
10 that.

11 Q. Okay. If you could, look in here
12 please. It will be Exhibit 10.

13 A. Exhibit 10?

14 (Off the record.)

15 BY MS. BRATTON:

16 Q. Exhibit 10, would that be one of the
17 policies that you all use?

18 A. Yes. That's our use-of-force policy.

19 Q. Okay. And I'm sure this is going to
20 sound silly, but --

21 A. Okay.

22 Q. -- you don't want officers using force
23 if it's not within policy; is that correct?

24 A. No, we don't want people to do
25 out-of-force uses of -- or out-of-policy uses of

1 force.

2 Q. Okay. And that could be because
3 it's -- could harm the citizen, it could harm a
4 fellow officer?

5 MS. LLOYD: Objection as to form.

6 A. There's many reasons why. You just
7 don't want someone to act outside policy. There
8 are policies for a reason. So --

9 BY MS. BRATTON:

10 Q. And the use-of-force policies -- do you
11 know what the reasoning behind use-of-force
12 policies are?

13 MS. LLOYD: Objection as to form.

14 A. The reason behind use-of-force
15 policies?

16 Yes. You need to have a set of rules,
17 per se, that govern your actions.

18 BY MS. BRATTON:

19 Q. Okay. And I guess that was what I was
20 getting to. You don't want people using force
21 that unnecessarily harms a citizen or a fellow
22 officer?

23 MS. LLOYD: Objection as to form and
24 mischaracterization of the policy.

25 A. We want to follow policy.

1 BY MS. BRATTON:

2 Q. I understand.

3 A. Okay.

4 Q. So I guess what I'm asking you is,
5 use-of-force policy tells an officer --

6 A. Uh-huh.

7 Q. -- this is what you can do, basically,
8 when you're confronted with this situation?

9 MS. LLOYD: Again, objection as to
10 form. The policy speaks for itself.

11 BY MS. BRATTON:

12 Q. You can answer.

13 A. Okay. Can you ask the question again?

14 Q. Uh-huh.

15 So you have use-of-force policies.

16 A. Yes.

17 Q. And the use-of-force policies tell
18 officers what they can do when faced with certain
19 situations or resistance?

20 MS. LLOYD: Objection as to form.

21 A. Our policies govern uses of force.

22 It's what officers comply with for uses of force.

23 It's policy.

24 BY MS. BRATTON:

25 Q. And I guess I'm asking, what is the

1 importance of use-of-force policies?

2 MS. LLOYD: Okay. Again, objection,
3 asked and answered several times.

4 A. Policies govern our uses of force. You
5 have to have some type of a -- of a directive or
6 a policy to guide the officers, what they adhere
7 to on uses of force.

8 BY MS. BRATTON:

9 Q. And is that so that citizens and
10 officers are protected?

11 MS. LLOYD: Again, asked and answered
12 already.

13 A. We have to have policies. We have
14 policies that govern everything we do. You have
15 to have policies that direct uses of force.

16 BY MS. BRATTON:

17 Q. Okay. So I just want to make sure that
18 I understand the answer. So the answer to the
19 importance of use-of-force policies is just that,
20 the department has to have policies to govern use
21 of force?

22 MS. LLOYD: Objection as to
23 characterization of her answer.

24 A. I was going to say, that's not what
25 I -- that's not what I said.

1 BY MS. BRATTON:

2 Q. Okay. I'm sorry that I misunderstood.

3 I want to just make the record clear.

4 Because I guess I'm asking -- well, my
5 question was -- is that -- does the department
6 have use of force so that it governs an officer's
7 actions to protect officers and to protect the
8 public?

9 MS. LLOYD: Asked and answered.

10 A. They're not simply just so we have --
11 so we can say we have a policy. They're clearly
12 there for a reason, to make sure that the
13 officers act in compliance with the law, with our
14 policy, and to make sure that they properly apply
15 the various continuum and the various levels of
16 force.

17 BY MS. BRATTON:

18 Q. Okay. And why is it important that
19 they comply with the continuum of force?

20 A. They need to ensure they use the
21 correct level of force, given the circumstance,
22 and that they act properly. They don't want to
23 use more force than is necessary or less force
24 than they maybe should be using, or it just -- it
25 is to ensure that -- that they follow the policy

1 and that they do the right thing.

2 Q. Okay. And do officers need to assess
3 situations prior to using force?

4 MS. LLOYD: Objection as to form.

5 A. What do you mean by assess?

6 BY MS. BRATTON:

7 Q. Do they need to determine whether or
8 not a threat exists prior to using force?

9 MS. LLOYD: Objection as to form.

10 A. It would depend on the circumstances.

11 Yes, they think about the circumstances. It's a
12 quick decision oftentimes, but they think about
13 the circumstances. They have to.

14 BY MS. BRATTON:

15 Q. Okay. And what factors do you want the
16 officer to take into account before deciding
17 whether or how much force to use?

18 A. Again, we need to look at the totality
19 of circumstances, the actions of the suspect, the
20 aggressiveness, the size of the suspect, the
21 crime.

22 Again, I referenced these. There's a
23 whole score of things that they think about when
24 they look at -- it's just the whole totality of
25 what's going on.

1 Q. Okay. And should your officers give
2 commands prior to using force?

3 MS. LLOYD: Objection as to form.

4 A. What do you mean command? Could you
5 give an example?

6 BY MS. BRATTON:

7 Q. Yes.

8 Step out of the car, should they give
9 somebody -- if I give you a command, step out of
10 the car, should an officer allow the person to
11 step out of the car before pulling them out of
12 the car?

13 MS. LLOYD: Objection as to form.

14 A. That's a tough question, because it all
15 depends on the circumstances. Just saying, step
16 out of the car, and they don't -- that doesn't
17 really give me enough details to answer your
18 question.

19 BY MS. BRATTON:

20 Q. Okay. So if -- if an officer wants a
21 citizen to get out of the car, should they say,
22 step out of the car, or should they open the door
23 and just pull somebody out?

24 MS. LLOYD: Objection.

25 A. It depends, again, on what the

1 circumstances are.

2 BY MS. BRATTON:

3 Q. Okay. And if a citizen is being
4 compliant, what would be the circumstance where
5 you would pull somebody out of the car without
6 saying anything to them?

7 A. We can take someone out of a car under
8 nearly any circumstance. I mean, we could take
9 them out of a car.

10 Q. Okay. So then you all are not trained
11 to ask a citizen to step out of the car before
12 you would --

13 A. Again, it depends on what the run is,
14 what the stop's about, what the circumstances
15 surrounding it are.

16 Q. Okay. Should officers give commands
17 one at a time?

18 MS. LLOYD: Objection as to form.

19 A. One command at a time or one officer at
20 a time?

21 BY MS. BRATTON:

22 Q. That's the next question.

23 A. I'm not sure --

24 Q. So the first is one command at a time.

25 A. Again, we don't have black-and-white

1 rules, and policing isn't like that. You have to
2 gear your response to each situation --

3 Q. Okay.

4 A. -- and what's happening at a situation.

5 I can't answer that as a carte blanche,
6 yes, we should or shouldn't do this, because it's
7 so fluid.

8 Q. What about -- and this may be the same
9 answer. But what about multiple officers giving
10 multiple commands at the same time?

11 A. What about it? I mean --

12 Q. Should officers do that?

13 A. Again, there's no black-and-white on
14 that.

15 Q. Okay.

16 A. It can happen, it may not happen.

17 Q. What about, should officers give
18 conflicting commands?

19 MS. LLOYD: Objection as to form.

20 A. They shouldn't. But it doesn't
21 necessarily mean that something may not come off
22 as a conflicting order sometimes.

23 BY MS. BRATTON:

24 Q. And if an officer -- if one officer
25 says, get on the ground, and another officer

1 says, don't move, and a suspect doesn't move,
2 would that suspect not be complying with officer
3 orders?

4 MS. LLOYD: Objection as to form.

5 A. Again, I can't -- it's tough to answer
6 that not knowing the totality of what's going on
7 prior to the suspect being told to do one thing
8 or another.

9 BY MS. BRATTON:

10 Q. If commands come in at the same time;
11 somebody opens a car door and says, get out of
12 the car, another officer, at the same time, says
13 don't move, and the person just doesn't move --

14 A. Okay.

15 Q. -- is that -- the person, the citizen,
16 who is not moving, because they received two
17 commands -- get out of the car, don't move -- is
18 that citizen then deemed to be not following
19 officer commands?

20 MS. LLOYD: Again, objection as to
21 form, and asked and answered.

22 A. Again, it's the totality of it.
23 It's -- it's -- you can't go back on information
24 not known at the time and try to judge what's
25 going on.

1 I -- there are so many things on these
2 stops, there's so many different circumstances, I
3 can't answer a black-and-white, yes or no, this
4 is right or this is not right, given the totality
5 of something.

6 BY MS. BRATTON:

7 Q. Okay. If you were reviewing a case --
8 and you said you look at the tape or listen to
9 the video, whatever is part of the packet that's
10 attached to the routing sheet --

11 A. Okay.

12 Q. -- and you were given -- officer A
13 said, open up the car door, and said, get out of
14 the car. Officer B is on the other side and
15 says, don't move, how do you make the
16 determination -- and the person is arrested for
17 not following officer commands.

18 How do you make the determination about
19 whether or not the officers' actions were within
20 policy or not within policy, as it relates to the
21 person's arrest?

22 MS. LLOYD: Again, objection as to form
23 of the question. And objection as to a
24 question I believe has now been asked and
25 answered three times.

1 A. I don't understand the question. It
2 was a multiple-parts question.

3 BY MS. BRATTON:

4 Q. Uh-huh.

5 A. And I don't want to answer one part
6 and --

7 Q. I got it.

8 A. Can you break it down or give it to
9 me --

10 Q. Uh-huh.

11 So you have a complete packet of
12 information.

13 A. Uh-huh.

14 Q. And that information comes in front of
15 you for you to determine whether or not an
16 officer was -- acted within or outside of policy,
17 correct?

18 A. Yes.

19 Q. Okay. And that packet of information
20 contains a narrative or a video or whatever, what
21 have you. And that narrative or video has a
22 suspect, officer opens up the suspect's car door,
23 tells the suspect, get out. Another officer
24 says, don't move. And the suspect is arrested.

25 And the issue at hand is whether or not

1 it was a proper arrest, based on not following
2 commands.

3 How -- how would you make the
4 determination whether or not it was within
5 policy?

6 MS. LLOYD: Again, objection as to
7 form, and as to multiple questions, and
8 also, the mischaracterization of what a
9 use-of-force investigation could be, not
10 whether or not an arrest was lawful.

11 A. I don't know what the -- again, I don't
12 know what the arrest was for that you're talking
13 about in your -- in your scenario.

14 And it's the totality of it. Like the
15 commands would not be -- I'd have to know more
16 about each individual situation. Again, it --
17 BY MS. BRATTON:

18 Q. If someone was arrested for obstruction
19 of justice for not following an officer's orders,
20 and that suspect received conflicting commands,
21 then how would you make the determination whether
22 or not your officer acted within policy charging
23 this person with obstruction for not following
24 the command?

25 MS. LLOYD: Again, objection as to

1 form.

2 And I've said this before, and we've
3 had lengthy testimony from the IAB sergeant,
4 that internal affairs does not make a
5 determination of whether an individual is
6 actually guilty of a particular crime and
7 whether or not a charge is lawful when this
8 whole situation is going to be determined by
9 a judge in a court.

10 There's been lengthy testimony as to
11 what the parameters of an internal
12 investigation are. And you are misstating
13 and mischaracterizing what an internal
14 investigation could be.

15 MS. BRATTON: One, I'm not asking about
16 an internal investigation, I'm asking about
17 her investigation, which can go through the
18 internal chain of command or directly
19 through her.

20 MS. LLOYD: You started off saying --

21 BY MS. BRATTON:

22 Q. And did you not say that internal can
23 come through you or that an investigation can go
24 through internal chain to come to you, or it can
25 go through the officer's chain of command,

1 outside of internal, and come to you?

2 A. Are you talking about internal affairs
3 when you say internal?

4 Q. Correct, internal affairs.

5 A. It depends on -- on the investigation.

6 Q. Okay. So --

7 A. Different things are done different
8 ways.

9 Q. Okay. That -- that's the question.

10 So something doesn't have to go through
11 internal affairs bureau for you to be able to
12 review an officer's actions?

13 MS. LLOYD: Again, objection as to
14 form.

15 We're talking about use-of-force
16 investigations, or internal affairs
17 investigations. We're not talking about the
18 issue which is before a court of law.

19 MS. BRATTON: I'm asking about a stop
20 and detention, not a use of force in this
21 particular question.

22 MS. LLOYD: And that's not -- again,
23 you are asking -- I believe your exact
24 question was whether or not there's a
25 determination that the individual should

1 have been charged with the crime he was
2 charged with, which is not an issue that is
3 subject under an internal investigation.

4 MS. BRATTON: No.

5 BY MS. BRATTON:

6 Q. My specific question was, how do you
7 make the determination about whether or not the
8 officer acted within policy when they gave
9 conflicting commands --

10 MS. LLOYD: Well, that's not -- that
11 was not the last question. But --

12 MS. BRATTON: Could you go back,
13 please, and read my last question?

14 (The record was read.)

15 MS. LLOYD: That is exactly what I
16 stated. Charging the individual, that's not
17 something that's reviewable.

18 BY MS. BRATTON:

19 Q. Okay. So you all can't review anything
20 that your officers charged a suspect with?

21 A. We review it, but I don't make the
22 determination on a criminal charge.

23 Q. I understand about the -- whether or
24 not the criminal charge is -- goes through
25 process.

1 But have you ever made a determination
2 about whether or not a person should or should
3 not have been charged with a particular crime?

4 A. No.

5 Q. Okay.

6 A. You mean reinvestigation; no.

7 Q. I'm sorry?

8 A. You mean reinvestigation on that? You
9 mean, if I was redoing an investigation; is that
10 what you're asking?

11 Q. Have you ever -- I'm just asking, in
12 your supervisory career, sergeant, lieutenant,
13 and now commander --

14 A. Yes.

15 Q. -- have you ever looked at something
16 and said, oh, I don't think this person should
17 have been charged with this?

18 MS. LLOYD: Are you talking about --

19 A. I don't remember.

20 BY MS. BRATTON:

21 Q. Okay. And if you could, go back to
22 Exhibit 33.

23 A. I don't think I have a 33.

24 Q. It's that one.

25 A. Oh.

1 Q. The date, it looks like, that you
2 received it was 11/26/14?

3 A. Uh-huh.

4 Q. And then it says, Forwarded,
5 11/26/14?

6 A. Yep.

7 Q. Okay. So you did the entire review in
8 one day?

9 A. Well, I don't have the investigation
10 here, but if those are the dates I put, yes, I
11 would have received it and forwarded it on the
12 same day.

13 Q. Okay. And when it's forwarded, where
14 does it -- is this the forward to internal
15 affairs bureau?

16 A. Yes, IAB, Internal Affairs Bureau.

17 Q. Okay. And then I'm assuming that IAB
18 would do a -- an investigation as well?

19 MS. LLOYD: Your -- they've already
20 done it.

21 A. This was sent to them for filing. This
22 one's already been resolved. The investigation's
23 been done. It was done by a chain-of-command
24 investigation, this particular one, this routing
25 sheet.

1 BY MS. BRATTON:

2 Q. Okay. So this -- this one wasn't done
3 by IAB?

4 A. I don't have it here, but it doesn't
5 appear, no. This is a use of force, level 2,
6 that came through the chain of command.

7 Q. Okay. And then when you forwarded it
8 to IAB, was that just for filing, or what was the
9 purpose of forwarding it to IAB?

10 A. That's our policy to forward it to IAB.
11 I'm sure they file it. I don't -- I've never
12 worked there. So they may do other things with
13 it. I don't know.

14 Q. Okay. And so just to be -- to be
15 clear, because there was, I think, some
16 objection. I want to make sure that the record
17 is clear.

18 A. Okay.

19 Q. This particular routing sheet --

20 A. Uh-huh.

21 Q. -- is a level 2 use of force outside of
22 the IAB chain of command?

23 A. This particular one, yes.

24 Q. Okay. And when you conducted your
25 investigation, were you aware that Mr. Phillips

1 had filed a separate internal affairs complaint?

2 A. I don't remember.

3 Q. Okay. And do you remember -- well, if
4 you don't remember if you filed it, you don't
5 remember if you reviewed his complaint, then.

6 Do you -- did you watch the videos
7 associated with Mr. Phillips' arrest?

8 A. I don't remember. If there were some,
9 I did. But I don't remember if there were any
10 attached with this investigation.

11 Q. Okay. Did you interview any of the
12 officers that were involved?

13 A. No.

14 Q. Did you ask any clarifying questions to
15 conflicting statements?

16 MS. LLOYD: Objection, asked and
17 answered.

18 A. I don't remember.

19 BY MS. BRATTON:

20 Q. Did you do any follow-up after -- or
21 have you ever followed up to see what your
22 officers' testimony was in a criminal trial
23 compared to what they wrote down on their
24 use-of-force statements or --

25 A. No.

1 Q. Okay. And do you know whether, in this
2 particular chain of command that's on the routing
3 sheet, anyone else besides Sergeant Rector,
4 Lieutenant -- I can't pronounce his name --

5 A. Eckenrode.

6 Q. -- Eckenrode, and yourself, prior to
7 going to IAB, participated in or reviewed the
8 incident with Mr. Phillips?

9 A. Oh, I don't know.

10 Q. Okay. Would they be on here if anyone
11 else reviewed it?

12 A. With -- you mean with him personally
13 or --

14 Q. Yes.

15 A. -- in --

16 Q. I'm sorry; this particular incident
17 that is the subject of the routing sheet.

18 A. Okay. Can you ask it again,
19 because I --

20 Q. Yeah.

21 A. -- I -- are you saying did I talk with
22 him personally --

23 Q. No.

24 A. -- or reviewed --

25 Q. I'm sorry.

1 A. -- this investigation?

2 Q. This particular investigation --

3 A. Yes.

4 Q. -- would anyone else who is not on this
5 routing sheet have reviewed the investigation?

6 A. Someone else may have read it, but I
7 don't know.

8 Q. Okay.

9 A. And likely, because they would be on
10 here, but --

11 Q. Okay. And can you take me through your
12 normal review process when you get an
13 investigation?

14 A. Well, depending on the investigation,
15 obviously, I would read the routing sheet, the
16 recommendations, any attachment, any documents,
17 any audio, video, anything else that's attached
18 to the investigation.

19 Q. Okay. And then if you see a
20 discrepancy in two or three officers' statements,
21 what would you do at that point?

22 A. As I said, if I see an issue with the
23 investigation, as done, I would refer it back to
24 the chain of command, back down to the
25 lieutenant, give them what my concerns or

1 questions were for clarification.

2 Q. Okay. And that didn't happen in the
3 investigation, correct?

4 A. I don't remember.

5 Q. Okay. Would it be on the routing sheet
6 if it went back? Like under remarks, would it
7 say, go back and look at one -- Officer A's
8 testimony compared to Officer B's?

9 A. It could. Depending on what it was, it
10 could. It could, but not necessarily.

11 Q. Would there be a writing? Would there
12 be like an e-mail, go back and look?

13 A. Myself, if I had a question with
14 something, a lot of times I will talk personally
15 to the person, the lieutenant, the serg -- well,
16 in this case, it would be the lieutenant,
17 following the chain of command principles, just
18 because I'd rather have a face-to-face than an
19 e-mail. That way question's going to be answered
20 right then and there and clarification is
21 given --

22 Q. Okay.

23 A. -- rather than bantering back and
24 forth.

25 That's just my style. There's no set

1 rule on that.

2 Q. Okay. And then, I guess, in that
3 instance, would there not be any documentation of
4 whatever clarification that you needed or --

5 MS. LLOYD: Objection as to form.

6 A. It depends. If I asked for it,
7 typically, there will be some type of
8 clarification given.

9 BY MS. BRATTON:

10 Q. Okay. I guess the question that I'm
11 asking is if, in the entire investigation, there
12 is not a piece of paper that says, go look back
13 at officer A's statement, go look back at
14 officer B's statement, what happened here; that
15 it's a reasonable assumption that you didn't send
16 it back for additional follow-up?

17 MS. LLOYD: Objection as to form.

18 A. In this one you're talking about?

19 BY MS. BRATTON:

20 Q. Yes.

21 A. Okay. What -- what exactly are you
22 asking about this one?

23 Q. So in the investigation, if there is
24 nothing from you to an officer about a follow-up,
25 is it reasonable for you to assume that there

1 was -- that it didn't go back for further
2 investigation?

3 A. No, I don't think it's reasonable to
4 assume that.

5 I don't remember in this particular --
6 if it happened or not.

7 Q. Okay. And why did you come to the
8 conclusion that all officers' actions were within
9 policy in this case?

10 MS. LLOYD: Where -- which line was
11 that?

12 MS. BRATTON: Level 2 mace within
13 policy.

14 MS. LLOYD: Where does it say all
15 officers? There's only one use of mace.

16 BY MS. BRATTON:

17 Q. So let me -- did you only review, then,
18 the use of force, level 2 mace?

19 A. If that's what's attached to this, yes.
20 I have not seen --

21 Q. Okay. Let me -- okay. If you could,
22 turn to Exhibit 2, and then that's Exhibit 2,
23 right there.

24 A. Gotcha.

25 Q. At the bottom of the page there will be

1 a Bates number that starts with GB.

2 A. Yes.

3 Q. Could you turn is GB784?

4 A. 784?

5 Q. Yes.

6 A. Okay.

7 Q. When you conduct an investigation -- or
8 I'm sorry -- review, do you have the incident
9 detail?

10 MS. LLOYD: Again, objection as to
11 form.

12 And identification of -- this exhibit
13 has not been identified for her.

14 A. Yeah. I'm not sure what I'm looking
15 at. It looks like a radio run printout.

16 BY MS. BRATTON:

17 Q. Okay. This is the radio run for
18 2756 Sullivant Avenue incident --

19 A. Okay.

20 Q. -- for Mr. Phillips.

21 A. Okay.

22 Q. And do you have the -- when you do a
23 review, the -- the printout of the run that the
24 officer was on?

25 MS. LLOYD: Again, objection as to

1 form.

2 A. If it's in the packet, I will look at
3 it, yes.

4 BY MS. BRATTON:

5 Q. Okay. And what about the officer
6 written statements?

7 A. If they're in the packet, I would
8 review the entire packet.

9 Q. Okay. So before I play Exhibit 3,
10 would -- and based on this routing sheet, would
11 you have only been looking at the use of force,
12 or would your review have been over the entire --
13 all of the circumstances surrounding
14 Mr. Phillips' stop, through the use of force?

15 A. I would review what's in the
16 investigation that I received.

17 Q. Okay. So if in the investigation it
18 has, this is why we stopped him, this is what
19 happened when he stopped him, this is what we
20 arrested and charged him with, this is the use of
21 force -- when you review the packet, if all of
22 that is in there, what part are you reviewing for
23 whether or not the officers followed policy?

24 MS. LLOYD: Again, objection as to form
25 and as to what it is she's reviewing.

1 A. I review what's -- every -- I review
2 the packet that's presented to me --

3 BY MS. BRATTON:

4 Q. Okay. And when you --

5 A. -- the entire packet.

6 Q. And when you review the packet -- so
7 here, at the top of the routing sheet,
8 Exhibit 33 --

9 A. Yes.

10 Q. -- it says, Subject, Use of Force,
11 Level II, Mace. It has the incident number,
12 slash, injury to prisoner.

13 A. Uh-huh.

14 Q. So when you are looking at whether
15 officer violated policy, are you only looking at
16 the level 2 use of force, mace, or when you read
17 all your officers' statements, are you looking at
18 whether or not policy was followed all the way
19 through, from the beginning of the interaction to
20 the use of force and the end of the interaction?

21 MS. LLOYD: Excuse me.

22 Objection as to form.

23 And we're going to have a problem here.
24 You're presenting her with a use-of-force
25 chain-of-command investigation. It's

1 already been established this is chain of
2 command on the officer who completed a
3 use-of-force report. So you're mixing
4 apples and oranges here with your
5 questioning.

6 MS. BRATTON: No.

7 BY MS. BRATTON:

8 Q. I'm asking you whether or not, if you
9 get a packet and your packet just doesn't have in
10 it, I sprayed somebody in the face with mace, it
11 will -- I would -- presumably, it will start, I
12 came into contact on --

13 MS. LLOYD: Again, objection as to
14 form.

15 BY MS. BRATTON:

16 Q. -- September 1st with subject A.
17 Subject A resisted. I maced the person.

18 MS. LLOYD: Objection to form.

19 BY MS. BRATTON:

20 Q. Do you only look at, I maced the
21 person, or do you look at the entire officer
22 statement and make a determination about whether
23 every action in that officer's statement was
24 within policy?

25 A. I need to look at the entire packet to

1 make a determination if this use of force, mace,
2 was within policy.

3 Q. Okay.

4 A. I don't just read one paragraph. I
5 look at the entire packet that's presented to
6 me.

7 Q. Okay. And if there is a question
8 beyond the use of mace, do you have the ability
9 to follow up on that?

10 A. If I have a question or I need
11 clarification, as I said, yeah, I would send it
12 back to the lieutenant --

13 Q. Okay.

14 A. -- or contact a lieutenant for -- to
15 say, hey, I have this concern, there's
16 clarification needed.

17 Q. Okay. So you have the ability, in your
18 chain of command, to ask a question that doesn't
19 deal specifically with use of force?

20 A. Yes, on -- yeah. Yes.

21 Q. Okay.

22 A. Yes.

23 Q. Okay. I am about to play what's been
24 previously marked Exhibit 3. It's the radio
25 dispatch.

1 A. Okay.

2 Q. And I will play --

3 MS. LLOYD: Could you explain, what is
4 this that we're seeing? What is that part
5 of, Exhibit 3? What is that part of?

6 MS. BRATTON: I just said the radio
7 dispatch.

8 MS. LLOYD: Which is part of the -- is
9 it part of the use-of-force report?

10 MS. BRATTON: Yes.

11 MS. LLOYD: Part of the use-of-force
12 investigation?

13 MS. BRATTON: Yes.

14 MS. LLOYD: Where is that? You were
15 saying -- isn't this the IAB investigation
16 that you're presenting to her?

17 MS. BRATTON: No.

18 MS. LLOYD: Okay. Is it not?

19 MS. BRATTON: This routing --

20 MS. LLOYD: Is Exhibit 3 that we're
21 looking at here the IAB investigation?

22 MS. BRATTON: No. Exhibit 3 is the
23 radio run itself, not the IAB --

24 MS. LLOYD: Okay.

25 BY MS. BRATTON:

1 Q. I am going to play what has been --

2 MS. BRATTON: Actually, if we could
3 take a break for a minute.

4 (A recess was taken from 10:09 to
5 10:12.)

6 BY MS. BRATTON:

7 Q. I'm going to play for you what has been
8 previously marked as Deposition Exhibit 3.

9 A. Okay.

10 Q. It is the dispatch from the radio run
11 that was involved -- the burglary dispatch
12 involved in the incident with Mr. Phillips.

13 A. Okay.

14 Q. And I'm going to play the recording at
15 22 hours, 44 minutes, and 22 seconds.

16 (Audio was played.)

17 BY MS. BRATTON:

18 Q. And then I'm going to play 22 hours,
19 45 minutes, 32 seconds, of Exhibit 3.

20 (Audio was played.)

21 BY MS. BRATTON:

22 Q. So if you had listened to the
23 recording, and the -- Mr. Phillips and his
24 passenger did not match the description of the
25 subjects that were described by dispatch, would

1 you have asked a follow-up question?

2 MS. LLOYD: Again, objection as to form
3 and lack of any connection as to what this
4 officer had testified to in connection with
5 her chain-of-command use of force.

6 A. Can you ask the question again?

7 BY MS. BRATTON:

8 Q. Yes.

9 If you had listened to the audio and
10 looked at the officer statements, and the officer
11 statements -- I'm sorry -- the radio dispatch and
12 the actual suspects -- so Mr. Phillips and
13 Mr. Phillips' passenger did not match the
14 description provided by dispatch, would you have
15 asked a follow-up question?

16 MS. LLOYD: Again, objection as to form
17 and as to what it is we're talking about
18 here. You're pluralizing officers when
19 there's no pluralizing in this document.

20 A. The radio room information -- it's very
21 difficult to answer that question, because I'm
22 not at the scene. I'm not -- the lighting, I'm
23 assuming it's dark out, it's 10:30 at night.
24 It's -- it's impossible for me to answer that
25 question.

1 A radio room information isn't always
2 what's happening out there. When someone calls
3 in -- a citizen calls in, a lot of times there's
4 so much more to what the officers are seeing that
5 plays into their decision-making and what actions
6 they take.

7 It's very difficult to answer that
8 question.

9 BY MS. BRATTON:

10 Q. Okay. If the location of the suspect
11 that's stopped is not the same that dispatch
12 reported, and the race and clothing is not the
13 same as dispatch reported, and dispatch reported
14 that all of the suspects were back inside of
15 building, what would you, in a determination that
16 you were making in reviewing a packet, that the
17 officers had reasonable articulable suspicion to
18 stop -- if you were making that determination,
19 what questions would you have of the officers if
20 none of those things matched about why they
21 stopped an individual?

22 MS. LLOYD: Again, I'm going to object.

23 I'm going to object as to speculation and
24 object as to what appears to be an attempt
25 to mischaracterize what Commander Curmode's

1 role was in this situation.

2 MS. BRATTON: And I'm -- for the
3 record, Counsel has asked a hypothetical
4 question with facts about what or how
5 Commander Curmode, who makes decisions -- is
6 a final decision-maker -- how she goes about
7 those decisions, what she uses to make those
8 decisions.

9 Counsel is able to ask those questions.

10 Counsel is not asking the specific
11 facts about this case. Counsel is asking
12 the witness how the witness goes about her
13 decision-making when deciding whether or not
14 to -- to say that an action was within or
15 without policy, whether or not it's use of
16 force, whether it's a stop investigation.

17 BY MS. BRATTON:

18 Q. So that's the question that I'm asking
19 you. Because you don't only investigate use of
20 force.

21 MS. LLOYD: All right. Then I'm going
22 to object to the form of the question.

23 BY MS. BRATTON:

24 Q. I'm sure you don't remember what --

25 A. Well, at this point, probably -- your

1 questions are really long. And there are a lot
2 of parts to the question.

3 BY MS. BRATTON:

4 Q. Yeah.

5 A. So if I'm asking you to repeat it,
6 that's why.

7 Q. No, I understand.

8 A. Deciding if something's in conformance
9 with policy, again, you look at the totality of
10 it.

11 Looking at radio dispatch information,
12 that's fluid. Suspects are not always where they
13 were when it was called into radio. They move,
14 they change, things change. You would go with
15 the information that's presented from the
16 sergeant or the supervisor's investigation, and
17 if that's included, then you look at it.

18 But, again, the radio dispatch
19 information is coming from various sources, and
20 it changes and things happen at the scene. So
21 it's a hypothetical, but it's almost too broad to
22 answer.

23 Each situation would have a different
24 answer, because it's just the way police work
25 works.

1 Q. Okay. So I'll be specific to
2 Mr. Phillips' situation with facts that have been
3 developed throughout the depositions in this
4 case.

5 A. Okay.

6 Q. So radio dispatch calls in what you
7 just heard, two white males -- a black female
8 with an orange wrap around her head and shorts,
9 two white males, one with a gray coat, loading
10 items into an unknown vehicle in the back or the
11 rear of the bar.

12 So that's the initial radio dispatch.

13 MS. LLOYD: Again, objection as to
14 characterization of the dispatch.

15 BY MS. BRATTON:

16 Q. Do you want me to play it again?

17 A. You can play it --

18 Q. Okay.

19 A. Well, no, you don't have to. I mean,
20 I'm not sure what exactly -- it's hard to hear
21 some of it. I'm not sure exactly the time
22 frames. There's so much to it --

23 BY MS. BRATTON:

24 Q. Okay.

25 A. -- that -- and, again, descriptions are

1 called in. A lot of times it's just a -- a kind
2 of a guide for the officers to start the run.

3 But there's so many things that
4 happened at the scene and so many other
5 perceptions and changes that happen from the time
6 it's called in.

7 I don't know what time it was called in
8 and the time frame. There's so many variables to
9 this that I can't --

10 Q. Okay. So that wasn't necessarily going
11 to be my question, but --

12 A. Okay.

13 Q. So I will play the recording again so
14 that we can get the suspect -- unless --

15 A. You don't have to play it again.

16 Q. Okay.

17 A. I mean --

18 Q. So that's the --

19 THE WITNESS: Unless you -- I'm not
20 sure --

21 MS. LLOYD: I don't know what the
22 question is going to be.

23 A. Yeah. I don't know really what I'm --
24 what --

25 BY MS. BRATTON:

1 Q. Okay.

2 A. -- I'm listening to. And it's very
3 garbled. I'm not sure who's what call number.
4 So I'm not really sure who was dispatched --
5 whose radio was listening to that. It's not a
6 clear recording.

7 Q. So Officer Blair has testified that she
8 didn't even run lights and sirens because she was
9 there in the alley of where the incident took
10 place. So it took her seconds, a matter of
11 seconds, to get to the location.

12 MS. LLOYD: Again, objection. You'll
13 have to ask her to assume a fact she -- this
14 woman can't possibly know what another
15 officer has testified to.

16 BY MS. BRATTON:

17 Q. Okay. You can assume that I'm telling
18 you the truth --

19 MS. LLOYD: No --

20 BY MS. BRATTON:

21 Q. -- and --

22 MS. LLOYD: -- you cannot assume.

23 BY MS. BRATTON:

24 Q. You can assume that I'm telling you the
25 truth. And based on your counsel's behavior, you

1 can assume that if I say something false, that
2 she will call me on it.

3 So I am saying that Officer Blair
4 testified -- you can assume it, you can believe
5 it or not.

6 But if Officer Blair testified that she
7 was seconds away; the call was to -- a car in the
8 rear of the building; Mr. Phillips was on an
9 opposite, one-way street that was the side, not
10 the rear of the building; and Mr. Phillips is a
11 black man with a white woman; the white woman has
12 on black pants, nothing on her head; and
13 Mr. Phillips does not have on a coat; and
14 Mr. Phillips is driving a pickup truck and
15 there's no vehicle description, would you have --
16 in the course of your investigation, would you
17 have any questions of your officers at all; why
18 did you stop them?

19 MS. LLOYD: Objection as to the form of
20 that question. And objection if counsel is
21 representing that that was Officer Blair's
22 testimony, the entirety of that question;
23 which definitely it was not.

24 BY MS. BRATTON:

25 Q. Officer Blair's testimony was how long

1 it took her to get somewhere, which was a matter
2 of seconds.

3 The other came from -- the description
4 of the suspects came from the radio dispatch, and
5 the other is Mr. Phillips is a black male.

6 I can play the video for you, that the
7 suspect was a white -- or his passenger was a
8 white woman with black pants on.

9 But I'm just asking you, in general,
10 whether or not these facts would be -- true or
11 not, if those facts were true, and they were
12 before you -- that a suspect's location, within a
13 matter of seconds of something being called in
14 that the officer receives the call to the time
15 they get there, in a matter of seconds, if the
16 car is not in the right place, if the people are
17 completely different races, the number of people
18 is different, the clothing is different -- would
19 you have any follow-up whatsoever?

20 This is just a general question: Would
21 you have followed up, hey, what was your reason
22 for stopping this person, because I notice these
23 things don't match up?

24 MS. LLOYD: Objection as to form --
25 complicated form of that question and the

1 extreme hypothetical.

2 A. Again, as I said, the officer is going
3 to look at what they're seeing, the totality of
4 it. The radio dispatch is a portion to guide
5 their response to the run, but there's so much to
6 that.

7 Now I can't even begin to second-guess
8 what they saw physically at the scene, after the
9 fact.

10 BY MS. BRATTON:

11 Q. I understand. Well, I guess my
12 question is, would you ask them why they did it.
13 That -- not second-guess what they did, but if
14 you --

15 A. If I saw a discrepancy, I would. But
16 I -- I don't -- again, descriptions are never --
17 are often not as accurate as they could be. It's
18 a guide for the officers; the person calling in,
19 it's a guide.

20 It's night. He is a light-skinned
21 individual. I'm not going -- like I said, I'm
22 not going to second-guess what the officers did
23 or saw at the scene.

24 Q. So then --

25 A. I wasn't at the scene.

1 Q. Okay. So then would officers,
2 according to your training -- because a dispatch
3 may be wrong, can an officer then just stop
4 anybody walking down the street because they're
5 in the vicinity, whether or not they match any
6 description whatsoever?

7 MS. LLOYD: Objection as to the form of
8 the question.

9 A. Well, obviously, you know the answer to
10 that. You don't have to ask me that.

11 They cannot stop anyone for any reason
12 And like I said, it's a guide. It's --
13 it's a guide to them. The radio calls are a
14 guide to take -- to build on to complete the run
15 or to follow through on the run.

16 I wasn't there. I cannot tell you what
17 they saw or what they didn't see or what may have
18 changed, how long ago the call came in, all kinds
19 of variables that are difficult to second-guess,
20 after the fact.

21 BY MS. BRATTON:

22 Q. Right. And so that's kind of my
23 question.

24 There's one end of the spectrum, you
25 can't stop just anybody walking down the street.

1 On the other end of the spectrum, if people are
2 on the street and they don't match any of the
3 description, how do you -- how do you determine,
4 if you are reviewing whether an officer's -- let
5 me go back.

6 An officer would be outside of policy
7 if they just stopped a person for no reason,
8 walking down the street, and detained them; is
9 that accurate?

10 A. There was no reason whatsoever?

11 Q. Yes.

12 A. They can initiate a conversation, but,
13 yeah, they do not detain them.

14 Q. Okay. And so the person would be free
15 to leave if they wanted to?

16 A. Correct.

17 Q. Okay. And then on the other end of the
18 spectrum, if the officer has reasonable suspicion
19 to detain, then they're allowed to talk to that
20 person to dispel whatever suspicions -- or to
21 detain that person?

22 A. Right.

23 Q. Okay. So if you're investigating
24 between those two spectrums, a citizen on one
25 side saying, I'm walking down the street, they

1 don't have any reason to stop me, and an officer
2 saying, no, I had a reasonable -- I can tell you
3 why I stopped them, those two spectrums, if you
4 have in front of you that the person -- the
5 location doesn't match, the person's description
6 doesn't match, the only thing that matches is
7 that they're on that street, what -- what do you
8 do to determine whether or not the officer's
9 actions were outside of policy; which the citizen
10 is saying, you shouldn't have stopped me, or
11 their actions are within policy, where the
12 officer is saying, I had reasonable suspicion?

13 MS. LLOYD: Objection as to that
14 question, the form of it, the vagueness, and
15 the over --

16 A. Again, I would look at the
17 investigation. If there were any questions, I
18 would ask for clarification.

19 BY MS. BRATTON:

20 Q. So -- so I guess, just sitting here
21 today, would you have any questions if, if the
22 individual was stopped -- and I understand that
23 dispatch may or may not be correct, but if the
24 only fact that matches up specifically is that
25 person was on the street, same street, that is

1 literally the only fact that matches up, is this
2 individual is on the street, would you have any
3 follow-up questions?

4 MS. LLOYD: Objection as to form.

5 A. Can you ask the second part again?

6 BY MS. BRATTON:

7 Q. Yeah.

8 A. Your questions your very lengthy.

9 Q. So --

10 A. And, as I said, they're multi --

11 Q. Uh-huh.

12 A. -- parts.

13 Q. Yes.

14 So an officer -- we've already
15 established that an officer cannot stop anybody
16 walking down the street.

17 If a dispatch comes in, and the only
18 fact that matches with dispatch is that the
19 person is near the location, would you have any
20 follow-up questions for your officers as to why
21 that individual was stopped?

22 MS. LLOYD: Again, objection as to
23 form. And we've been over this several
24 times now.

25 As far as Commander Curmode's role,

1 what is it that she's being presented with
2 in her packet?

3 A. I assume you're talking hypothetical.
4 Rarely is that the only reason that's
5 coming out. Rarely is that the only thing that
6 would be presented in the packet, that they just
7 stopped somebody in the street.

8 BY MS. BRATTON:

9 Q. Okay. You said when you get a
10 packet --

11 A. Uh-huh.

12 Q. -- you read all of the report. If
13 there's audio, you listen to the audio, if
14 there's video, you watch the video --

15 A. Uh-huh.

16 Q. -- right?

17 So you look at everything?

18 A. Uh-huh.

19 Q. Okay. So if you're reading through,
20 and you see, I, you know, stopped this individual
21 to investigate something. And you listen to the
22 dispatch and nothing matches the person who was
23 stopped except that they were near the location,
24 would you have follow-up questions?

25 MS. LLOYD: Objection as to form.

1 A. Again, there is a totality of a
2 situation. And it's -- if I saw a problem in any
3 investigation that I felt didn't look right or
4 needed follow-up or maybe was not clear, I would
5 ask for follow-up.

6 BY MS. BRATTON:

7 Q. Okay. So dispatch called Mr. Phillips'
8 truck -- or actually, not his truck, because it
9 wasn't him -- called and -- that there was an
10 unknown vehicle loading items into the rear of
11 the bar.

12 MS. LLOYD: Again, objection as to form
13 and mischaracterization of unknown vehicle.

14 BY MS. BRATTON:

15 Q. I'm going to play Exhibit 3, 22 hours,
16 44 minutes, and 22 seconds.

17 A. Is that the one we listened to already?

18 Q. Yes.

19 (Video was played.)

20 BY MS. BRATTON:

21 Q. Okay. So from that dispatch, can we
22 agree that dispatch called in, suspects are
23 loading items into an unknown vehicle in the rear
24 of the closed bar?

25 A. No. Dispatch didn't call that in.

1 Q. I'm sorry. Dispatch radioed that to
2 officers.

3 A. They radioed that, yes.

4 Q. Okay; and that the suspects were two
5 white men, one black woman. The white man -- one
6 of the white men has on a gray coat. The black
7 woman has an orange head wrap and shorts.

8 MS. LLOYD: What is the question?

9 BY MS. BRATTON:

10 Q. Can we agree that that is what dispatch
11 just radioed to the officers?

12 A. That's the information that they put
13 there.

14 Q. Okay.

15 A. I don't know where they got it from.

16 So --

17 Q. Yes. But I'm just saying, that's what
18 was given to the officers.

19 A. I'm hearing that on the radio.

20 Q. Yes.

21 A. I'm hearing that on your recording.

22 Q. Okay. And if Mr. Phillips was parked,
23 not on the rear of the building --

24 A. Uh-huh.

25 Q. -- but on the side of the building --

1 A. Uh-huh.

2 Q. -- or driving down the street --
3 there's a dispute, parked on or drove down -- the
4 side of the building, not the rear; and
5 Mr. Phillips is black, and we've established he's
6 light-skinned -- black on the record -- his
7 passenger is white; his passenger does not have a
8 head wrap; his passenger has on pants; and
9 Mr. Phillips does not have on a coat -- what, if
10 any, follow-up questions would you have if the
11 only thing that matched in that situation is
12 Mr. Phillips is near the dispatch location?

13 MS. LLOYD: Again, objection as to
14 form.

15 Are we talking about a hypothetical
16 here? Because, obviously, we know there are
17 many more circumstances to this particular
18 incident.

19 BY MS. BRATTON:

20 Q. The initial stop itself, this is what
21 the officers have, is what dispatch gave them.

22 A. Again, there's more to than what is --
23 dispatch is giving.

24 They said they didn't know what kind of
25 a car it was being loaded into. The caller

1 couldn't see that.

2 Q. Yes.

3 A. So the officers have to take the
4 information, the limited information, given from
5 dispatch, along with everything else that they're
6 seeing at the time. And things change. Head
7 wraps can be taken off. If they're in a car, you
8 don't know what they're wearing from the waist
9 down. It's 10:30 at night.

10 There's so many variables to police
11 work that the officers have to make calls on,
12 judgement calls on, at the scene, that going back
13 and saying, yes, this can happen, this should
14 have happened, or whatever, after the fact is
15 difficult if not impossible; looking at
16 everything after the fact, not being at the
17 scene, not seeing everything that they're looking
18 at and that they're experiencing.

19 Q. So my question is not that.

20 My question is, would you ask follow-up
21 questions so that you can get to that conclusion
22 that there were other factors that the officer
23 considered?

24 MS. LLOYD: Again, objection as to the
25 repeated asking her about follow-up

1 questions, when we've established her role
2 is that she's reviewing an entire packet in
3 this hypothetical, that she's reviewing an
4 entire packet of information.

5 And she has repeatedly said, if she had
6 questions, she would ask.

7 A. I mean, I understand police, and I
8 understand the totality of it, and I understand
9 that what they're acting upon is what they see
10 and what they're -- what they're doing at the
11 scene.

12 So if I had questions, I would ask
13 them. But I'm not only reading the packet, I'm
14 going on my experience as a supervisor and
15 knowing that there's so many variables leading
16 into it.

17 BY MS. BRATTON:

18 Q. When officers write a report, is their
19 report supposed to contain as much detail as
20 possible about the stop or about the incident?

21 MS. LLOYD: Objection as to form.

22 A. It's kind of vague. What report? What
23 kind -- report's a big term.

24 BY MS. BRATTON:

25 Q. Arrest --

1 A. What are you talking about?

2 Q. An arrest or incident report.

3 A. Which one?

4 Q. Incident report first.

5 A. Okay. It depends on the incident
6 report what information goes in. A lot of it has
7 check-boxes and things like that. So you have to
8 be more specific.

9 I mean, they -- all the details that
10 they can find, all the details that are
11 available, yes. But certain ones ask for
12 different details.

13 Q. Okay. And would the race of the
14 suspect, any passengers, would that -- would
15 those things be expected to be included in the
16 incident report?

17 MS. LLOYD: Objection as to form.

18 A. Yeah. I'm not sure what you mean by
19 incident report.

20 BY MS. BRATTON:

21 Q. If -- if an officer stops someone for
22 an investigation, they're investigating someone,
23 and that investigation turns into an arrest --

24 A. Uh-huh.

25 Q. -- are the officers expected to detail

1 in their incident report what led up to that
2 arrest -- what led up to that arrest?

3 A. Well, you're talking -- in that case,
4 if there's an arrest made, you're talking about
5 an arrest report, not an incident report.

6 Are you talking about the arrest
7 information form?

8 Q. Okay. So, I guess, let me go back.

9 What's the difference between an
10 incident and --

11 A. I'm not sure what you're talking about,
12 about incident report. I'm not really clear on
13 what you're -- what -- can you give me an example
14 of what the incident report is that you're
15 talking about? I mean, I know we have a lot of
16 forms.

17 Q. If we go to Exhibit 2, 790. So I guess
18 she titles this Arrest Summary.

19 MS. LLOYD: Yes.

20 What is it you want her to --

21 BY MS. BRATTON:

22 Q. I'm -- I'm asking, would this be what
23 is an incident report or an arrest --

24 A. It would be -- it says, Arrest --

25 Q. -- summary?

1 A. -- Summary. So I'm assuming it's the
2 details for the arrest information form.

3 Q. Okay.

4 A. And I didn't -- I'm not really sure. I
5 didn't write it, so I'm not really sure.

6 Q. And then when you all write arrest
7 summaries, are you all trained on when -- what
8 information should be included in the
9 summaries?

10 A. Yes, in the arrest summary training.

11 Q. Okay. And in your summary training,
12 should suspect descriptions be included?

13 MS. LLOYD: Objection to form.

14 A. The arrested suspects? I mean, I'm not
15 sure what you're asking me.

16 BY MS. BRATTON:

17 Q. Yes, arrested sus -- well, yes,
18 arrested suspects.

19 A. Yeah, I believe there's a place for
20 race of the arrested -- of the arrestee.

21 Q. Okay. And what about if dispatch
22 information was provided and it differed from
23 whom they arrested, should --

24 MS. LLOYD: Objection.

25 BY MS. BRATTON:

1 Q. -- that be in there?

2 MS. LLOYD: Objection to form.

3 A. Again, as I said, it can differ. It's
4 a lot more than just what dispatch put out when
5 an officer decides to make an arrest. There's
6 just a lot more surrounding circumstances.

7 So it can differ.

8 BY MS. BRATTON:

9 Q. Okay. So are they expected, though --
10 then should they not -- are they trained to put
11 in what dispatch said, even if it differs, or is
12 that not something that they need to bother with?

13 MS. LLOYD: Again, objection as to form
14 of that question.

15 A. I mean, it depends on circumstance. If
16 it's something they feel is pertinent to put into
17 here, they would put it in.

18 This is -- hypothetically, it's so
19 difficult to go back and determine what the
20 thought process was when they were making the
21 arrest.

22 BY MS. BRATTON:

23 Q. Okay.

24 A. There's no rule that says that
25 dispatch -- from -- has to go in there. But if

1 it had some pertinence to -- pertinence? Is it
2 pertains? It may not be the right word.

3 If it pertains to the run, then they
4 would likely include it as part of the complete
5 summary.

6 Q. Okay. And when you -- what are your
7 expectations of an investigation when it gets to
8 you, as far as information that the investigator
9 collects?

10 MS. LLOYD: Objection as to form.

11 A. My expectations? What do you mean by
12 that?

13 BY MS. BRATTON:

14 Q. So if they just gave you a routing
15 sheet with nothing attached to it, would that be
16 something that you would say, hey, I can't make a
17 decision on?

18 A. That doesn't happen. The routing sheet
19 is an extra thing. That wouldn't happen.

20 Q. Okay. So I guess that's my -- the
21 question is, what do you expect to be included in
22 an investigation so that you can make a decision
23 about whether or not the investigation was a
24 thorough one?

25 MS. LLOYD: Objection as to form.

1 A. It includes all the applicable forms, a
2 recommendation, any attachments that were deemed
3 by the investigating supervisor to be necessary
4 for a complete investigation.

5 That's what -- I would expect the facts
6 and the details to be there so I can make a
7 logical recommendation.

8 Q. And are cruiser cam and body cameras
9 deemed to be necessary in making use-of-force
10 determinations?

11 MS. LLOYD: Objection as to form.

12 A. Well, we didn't have body cams in 2014.
13 So if it's -- if it contains information and the
14 supervisor decides to include it, yes, I would
15 expect it to be in there.

16 BY MS. BRATTON:

17 Q. Okay. And if a supervisor did not
18 include, at this time, a cruiser cam, and there
19 is a reference to it, would that be something you
20 would say, I want to see the cruiser cam?

21 MS. LLOYD: Objection as to form.

22 A. It depends what the reference was.

23 Again, these all -- you're talking in
24 such hypothetical generalities, and there is no
25 black and white on a lot of these things. So

1 it's just difficult to answer some of your
2 questions, because they are kind of --

3 BY MS. BRATTON:

4 Q. Okay. If a cruiser -- if the cruiser
5 cam showed the incident that the use-of-force
6 complaint or investigation is based on, would you
7 expect the investigator to include that?

8 A. They can include it.

9 They can refer -- that can be looked up
10 by incident number, also.

11 Q. Okay.

12 A. Sometimes that will happen. You can
13 look it up on the system to -- it's just simpler,
14 and to save space.

15 Q. Okay. But you would expect it to be
16 somewhere that you know if it existed, that you
17 could review it if you wanted to?

18 A. Most likely, yes.

19 Q. Okay. And what about dispatch, is that
20 something that if officers are dispatched to a
21 run, that the investigator should put, go out and
22 get dispatch and put it in their report?

23 MS. LLOYD: Objection as to form.

24 A. Not necessarily. It depends on what's
25 on that particular run. But that's not something

1 I would particularly look for necessarily. I
2 would assume that if it was -- contained
3 pertinent information, it would have been
4 included.

5 Like I said before, it's not always the
6 same as what happens on the run. It's a guide
7 for the officer.

8 BY MS. BRATTON:

9 Q. Okay. How would you, then, determine
10 if an officer's actions were within policy if you
11 don't have all of the information that -- if you
12 don't have all of the information that the
13 officers used in making the decision that they
14 made?

15 MS. LLOYD: Objection as to form.

16 A. The -- the information the officer uses
17 is typically within the packet.

18 Again, I don't have the packet, so I
19 don't know. But it's in the packet. If it's
20 not, you ask for it.

21 BY MS. BRATTON:

22 Q. Okay. So that was the question with
23 dispatch.

24 A. We don't -- radio does -- go ahead.

25 Q. No. I'm sorry.

1 A. Yeah. I -- I'm sorry. I just --

2 Q. Part of it is --

3 A. Go ahead.

4 Q. Part of it is, I'm trying to understand
5 the process of how you came to the decision.

6 So if it's you typically don't listen
7 to dispatch, then I would need to know that.

8 So that was -- one of the questions
9 was, how did you come to this particular
10 conclusion, and what -- so that was one question.

11 And then the other question was, what
12 did you use to come to it? So --

13 MS. LLOYD: Objection as to form. And
14 I believe that particular question has been
15 asked and answered now several times.

16 A. I look at what's attached to this. I
17 don't know what's attached to this, or I don't
18 remember.

19 But I look at what's attached to this,
20 and I make my recommendation on what's in the
21 investigative packet. And, again, if I see any
22 lack of information, then I ask for it.

23 BY MS. BRATTON:

24 Q. Okay. And if someone is stopped --

25 A. Uh-huh.

1 Q. -- and there is a dispute over the
2 stop, would you expect the investigator to get
3 the dispatch information to review?

4 MS. LLOYD: Again, objection as to the
5 form of that question, and the premise of
6 that question that someone is investigating
7 a stop.

8 A. I don't know what you mean by dispute,
9 who's disputing or where it's coming from, so I'm
10 not sure about that part of the question.

11 BY MS. BRATTON:

12 Q. If you're reviewing a citizen or
13 another officer, someone reports an investigation
14 is open. It comes to you for review. And that
15 investigation -- there is a dispute -- no matter
16 how it came in, there is a dispute as to whether
17 or not a citizen should have been stopped and
18 detained, would you want whatever information was
19 available to determine what the officers used
20 to -- for reasonable suspicion to stop and
21 detain?

22 MS. LLOYD: Again, I'm going to have to
23 object to the form of that question to
24 the -- and assuming it is a hypothetical.

25 A. The dispute part is still throwing me.

1 If there was a dispute on something,
2 that's unlikely that's the type of investigation
3 that I would receive. A dispute would lead me to
4 believe it would be a citizen complaint or some
5 allegation of misconduct. And I would not get
6 that initial investigation to look at.

7 Dispute is kind of a -- I don't know
8 who's disputing what.

9 BY MS. BRATTON:

10 Q. Okay.

11 A. It's unclear to me.

12 Q. If an investigation in an officer's
13 chain of command is opened or instituted because
14 an officer stopped and detained someone, and the
15 allegation is they did that lacking reasonable
16 suspicion, would you want all of the information
17 that was available to review what the officers
18 used or based their reasonable suspicion
19 determination on?

20 A. Again, if there is a dispute and an
21 illegal detention, that would not come to me,
22 that would go to internal affairs. I would --
23 that would not be a use-of-mace investigation.

24 Q. I --

25 A. I wouldn't get that.

1 Q. Okay. I understand that. Earlier, I
2 asked you about --

3 A. I'm not sure you understand my role.

4 Q. Earlier, I asked you, have you -- do
5 investigations come to you for review about an
6 officer stopping and detaining someone that's not
7 in policy. And you said yes.

8 A. I don't think that's how it was
9 phrased.

10 Q. Okay. So then the only --

11 A. An internal affairs investigation would
12 come to me, yes. But it would have been
13 investigated already on that type of an
14 allegation.

15 Q. Okay. And you have the ability -- when
16 it comes to you, you do a final review on it,
17 correct?

18 A. I would review what internal affairs
19 did, yes.

20 Q. Okay. And if something was missing
21 from internal affairs, you have the ability to
22 say, I think this is missing, I want to go
23 back -- I want you to go back and get it, look at
24 it, review it, or give it to me?

25 A. We can talk to internal affairs if we

1 feel something is unclear in the investigation,
2 yes.

3 Q. Okay. And you can ask them to obtain
4 additional information?

5 A. We can ask them to look at it, yes.

6 Q. Okay. And when you ask them to look at
7 it are you able to say, go get me dispatch?

8 A. That's up to their chain of command.

9 We take our concerns to them and they have to
10 answer that.

11 Q. Okay. So if you need additional
12 information before you would sign off on
13 something, and the other chain of command won't
14 get it, how do you resolve that?

15 A. They will get -- if I have a clarif --
16 if I need clarification, they will get you the
17 clarification.

18 How they get it is on -- is their realm
19 of responsibility or their area of
20 responsibility. I've never not been given
21 information, clarifying information, if I've
22 asked internal affairs' chain of command for it.
23 They will give it. There's -- they're not going
24 to say, no, we're not going to clarify that.

25 Q. Okay. So then in instances where you

1 are reviewing a stop and detention investigation,
2 you have the ability to go back to internal
3 affairs and say, I want dispatch, or whatever you
4 feel is missing?

5 A. I can ask them for clarification.

6 Q. Okay.

7 A. If I feel that something in particular
8 is missing, I can say that. But, again, it's
9 their investigation. They know what they've
10 looked at and what they've done and who they've
11 talked to.

12 Q. So then what is your role in the
13 approval process?

14 A. Approval of what?

15 Q. The final -- as the final
16 decision-maker, what is your role in the
17 investigation?

18 A. On what type of investigation?

19 Q. On --

20 A. Because there's different roles in
21 different types of investigations.

22 Q. On a stop and detain investigation.

23 A. I wouldn't get that. A stop and
24 detention investigation would probably be an
25 internal affairs compliant. So it would go to

1 them.

2 If it was alleged to be an illegal
3 detention or something like that, it would go to
4 internal affairs. And then I would get their --
5 if it was a person -- ultimately, I will get the
6 internal affairs packet, after they did all the
7 interviews and get anything they need to get for
8 it.

9 Q. Okay. And then do you sign off on
10 it?

11 A. I would review it and make a
12 recommendation, yes.

13 Q. Okay. So I -- in the investigation --

14 A. Uh-huh.

15 Q. -- that chain, you are to make a review
16 and request -- a recommendation?

17 A. Uh-huh.

18 Q. And do you have any responsibilities in
19 ensuring that the investigation that was
20 conducted was thorough and accurate?

21 A. If I see something -- as I said, if I
22 see something that's missing in an investigation,
23 I'm going to ask for clarification.

24 After I've made my recommendation, all
25 internal affairs investigations go to the deputy

1 chief level, so -- which provides you with
2 another level of oversight and supervision and
3 review.

4 And they also have the prerogative, if
5 they feel something is missing, to send it
6 back.

7 Q. Okay. So your role is not just to sign
8 off on internal affairs investigations, it's
9 to -- is that accurate?

10 A. What do you mean by sign off? Just
11 signing the routing sheet or --

12 Q. Yes, without --

13 A. No, I would --

14 Q. -- reviewing anything.

15 A. I would be remiss in my duties if I did
16 not read the investigation --

17 Q. Okay.

18 A. -- completely.

19 Q. And with officers and dispatch, an
20 officer then is given leeway to stop anyone
21 because dispatch could be wrong?

22 MS. LLOYD: Objection as to form.

23 A. I don't know what you mean by leeway.
24 The officers -- we get runs. They respond to the
25 run. That puts them in the area. There's so

1 much more to the situation on the streets.
2 There's so many more factors and more variables
3 that come into play.

4 And leeway is -- I don't know what
5 leeway is, what you mean by that word.

6 BY MS. BRATTON:

7 Q. So there is still a question that I
8 don't think has been answered yet, about how,
9 when an investigation is being conducted -- so
10 when you're doing the review, I understand that
11 internal affairs, they go get all the
12 information. They get everything.

13 But, ultimately, when it comes to you,
14 you do a complete review of what the officers did
15 before you sign and say, I recommend whatever you
16 recommend.

17 A. Okay.

18 Q. So in that regard, you are reviewing
19 all of the facts contained in the investigation;
20 is that correct?

21 A. Right, reviewing the investigation.

22 Right.

23 Q. Okay. So if nothing matches a
24 description except that a person is near a
25 location -- once you read it, you listen to a

1 tape, you watch a video, the only thing that is
2 exact is that somebody is near a location, would
3 you have any follow-up at all?

4 MS. LLOYD: Again, objection as to the
5 form of that question and departing from the
6 facts of this case.

7 A. Again, there is more to every bit of
8 policing that we do out there than just what
9 comes across the radio.

10 And, again, I can't begin to
11 second-guess what they saw and what they did in
12 this hypothetical that you're giving, out in the
13 streets. There is so much more to it.

14 BY MS. BRATTON:

15 Q. I understand that there is a number of
16 instances or a number of variables that can
17 happen on the street.

18 A. Uh-huh.

19 Q. But when you get an investigation
20 packet, your investigation is kind of limited to
21 what those officers put in your experience; is
22 that accurate?

23 MS. LLOYD: Excuse me. Could you
24 read the -- I didn't hear the last part of
25 that question, just the last phrasing.

1 (The record was read.)

2 MS. LLOYD: Objection as to form.

3 BY MS. BRATTON:

4 Q. When -- there are a number of
5 variables -- you've already testified to -- that
6 can occur when an officer stops someone in your
7 decision-making.

8 A. Uh-huh.

9 Q. But when you make a determination,
10 you're looking at the facts in the packet that's
11 before you, correct?

12 A. Yes.

13 Okay. So if you have a packet before
14 you, and you're investigating a stop -- or you're
15 reviewing an investigation of a stop and
16 detention, in the facts in your packet, the only
17 thing that matches up is that the suspect was
18 near the location, would you have any follow-up?

19 MS. LLOYD: Again, objection as to form
20 and the fact that this question has now been
21 asked numerous times.

22 I would also object to the clar --
23 matches up with what?

24 A. Again, if I saw anything lacking or
25 something that is amiss in any investigation that

1 I review, I would ask for clarification or seek
2 clarification on it.

3 Saying that one thing is the only thing
4 that matches up, you can't be that -- it's not,
5 again, black and white. You can't just say,
6 well, this and that. There's going to be more to
7 that packet.

8 And if I saw anything that was amiss, I
9 would ask for clarification.

10 I've said that several times. And
11 trust me when I say, I would ask for
12 clarification.

13 BY MS. BRATTON:

14 Q. No. I under -- I understand that. I'm
15 trying to understand what dispatch's role is in
16 policing, if any.

17 So if dispatch calls in a black woman
18 with shorts walking down the street, and one of
19 your officers stops a white woman with a short
20 skirt on just because they're on the same street
21 and in the vicinity, is that something, if the
22 white woman made a complaint, that you would
23 review?

24 MS. LLOYD: Again, objection as to the
25 impossible form of that question.

1 And the initial question, I believe,
2 was something that you want to understand
3 about the role of dispatch. The question is
4 impossible to answer. It went on for a long
5 time with several subparts.

6 A. I forgot the question.

7 BY MS. BRATTON:

8 Q. So --

9 A. Because it was, again, a long question.

10 Q. Yes.

11 If an officer can just stop anybody
12 because dispatch is -- can be inaccurate, then
13 what is dispatch used for?

14 MS. LLOYD: Again, objection as to form
15 and the premise of that question, which is
16 an absolute mischaracterization of what
17 Commander Curmode has said numerous times.

18 A. In fact, I think I said you can't just
19 stop anybody for anything. I'm sure I said that.

20 Again, a citizen calls in, oftentimes
21 anonymous, saying -- at night in the dark -- that
22 they saw a male black, male white, what have you.
23 There are perceptions. You cannot go exact --
24 well, I'm going to drive by him because he's not
25 a male black with a shirt on, because I see a

1 light-skinned male black who took his shirt off.

2 Things change. They're fluid. The
3 officers need to get the -- they're at the scene.
4 They need to take what they have, put all the
5 pieces together to make a determination.

6 BY MS. BRATTON:

7 Q. Okay. So --

8 A. I feel like I'm answering the same
9 question different ways for you, trying to
10 clarify for you.

11 Q. Yeah. Maybe it's just me not getting
12 it.

13 Because if you can't stop anybody -- if
14 an officer can't stop just anybody on a street,
15 but someone on the street doesn't match any
16 description, then is it that the officer can stop
17 because of vicinity, or -- that's -- that's what
18 I'm trying to get to.

19 Because it was said that an officer
20 can't just stop anybody. And then it was said
21 that officers have to rely on more than just
22 dispatch.

23 So if vicinity to a dispatch location
24 is all that is in line with dispatch, what was
25 dispatched out as far as race, as far as gender,

1 then how -- what is reas -- how do you make a
2 determination about whether the stop was
3 reasonable?

4 MS. LLOYD: Again, objection as to the
5 form of that question, which went on
6 forever, without ever indicating what is the
7 criminal activity that is the source of the
8 dispatch report or call.

9 A. Can you ask the last part of the
10 question again?

11 BY MS. BRATTON:

12 Q. Uh-huh.

13 Where -- how do you make a
14 reasonableness determination of an officer's stop
15 and detention when the only -- when vicinity is
16 the only descriptor that is in line with what
17 dispatch sends out?

18 MS. LLOYD: Again, this question has
19 now been asked several times.

20 And, also, Commander Curmode has
21 testified now several times as to this issue
22 of investigating a stop and detention.

23 A. Again, the officers are at the scene.
24 They make the stop. If it's just vicinity, they
25 make the stop. Something more is going to

1 happen. Something happens. Something else is
2 going to contribute to that situation.

3 BY MS. BRATTON:

4 Q. Okay. So then vicinity is a
5 reasonable -- you can stop someone just because
6 they're in the vicinity?

7 MS. LLOYD: Objection as to form and as
8 to mischaracterization of her testimony.

9 She's just testified that there are other
10 variables in any situation.

11 All of your questions have eliminated
12 the underlying criminal activity that would
13 be inherent in the situation.

14 A. We've also -- earlier, I testified that
15 you can have a consensual encounter with someone
16 based on vicinity.

17 10:30 at night, you can have -- and
18 that -- they didn't get the car description, they
19 can reasonably stop someone for vicinity, yes.

20 Q. Okay.

21 A. But, as I said also -- because I'm
22 giving a multi-part answer -- there are those
23 other factors, and other things will come into
24 play when that stop is made. Things happen.
25 Things change. Things evolve.

1 Q. Okay. But if the original -- just
2 going back to what you said, is that they can
3 stop for vicinity.

4 Is that the only thing that -- can they
5 base a reasonable stop just off of suspicion --
6 vicinity?

7 MS. LLOYD: Again, objection as to form
8 and as to mischaracterization of her
9 testimony, now which is getting to the point
10 where this is badgering. And this is
11 ridiculous. She has answered the same
12 question now, I would say, maybe up to
13 30, 40 times.

14 MS. BRATTON: For the record, I just
15 asked the witness a question as opposed to
16 mischaracterizing testimony.

17 My question was, can an officer base a
18 stop solely off of vicinity. That is not
19 mischaracterizing anything. That is asking
20 a question.

21 MS. LLOYD: That question has been
22 asked and answered now several times.

23 A. There's other circumstances involved in
24 that. They can make a stop. Vicinity is a big
25 part of it. It's not the whole part. I cannot

1 second-guess what the officers saw, if we're
2 talking hypothetical or we're talking about his
3 specific situation.

4 BY MS. BRATTON:

5 Q. So my question was not the other. I'm
6 just asking solely, so one thing.

7 If -- can the officers solely base -- I
8 understand that it can be vicinity, it can be
9 race. I understand there can be variable
10 factors.

11 The question, which has not been
12 answered, this specific question is, can an
13 officer within Columbus police training stop a
14 citizen solely -- for no other reason, solely
15 because they are in the vicinity of a dispatched
16 crime?

17 A. Vicinity has a big part of it. It can
18 have a big role in it.

19 Q. Okay.

20 A. But the word solely, again, you're
21 black-and-whiting policing, and it isn't like
22 that.

23 That's kind of an absolute that you're
24 giving me.

25 Q. So then is it --

1 A. I guess I don't -- I'm not
2 understanding the question. You're asking the
3 question different ways, and I'm not -- clearly,
4 since you keep asking it, I must not be following
5 what you're asking me, or I've answered it. I'm
6 not sure.

7 Q. I mean, I don't even -- I don't know
8 how to make it clearer -- is that -- is the --
9 can an officer stop somebody and the only reason
10 they stop them is because they're in the vicinity
11 of a reported crime?

12 A. It's not going to be the only reason.
13 There's going to be a reported crime.

14 Q. No, that's what I said, reported crime.

15 A. Right. That -- so it wouldn't be the
16 only reason they stopped them. They may stop
17 them just to ask if they saw somebody in the
18 area. There can be very many different ways to
19 have contact with a person in the vicinity of
20 something.

21 And then something may transpire from
22 there, where there's more or there's some other
23 factor that would lead them to believe, huh, this
24 person isn't just here, they potentially could
25 have something to do with this.

1 Q. Okay. So that was the answer --

2 A. Is that --

3 Q. So, yes, they can stop them because
4 they're -- just because they're in the
5 vicinity?

6 MS. LLOYD: In the vicinity of --

7 A. A reported crime, right.

8 BY MS. BRATTON:

9 Q. Yes.

10 A. That's what I thought I answered -- or
11 trying to answer.

12 Q. Yes, you did. Thank you.

13 And if they stop someone -- if an
14 officer stops someone in the vicinity of the
15 crime, and that person -- there is no reasonable
16 suspicion, at that time, that that person is
17 involved in the reported crime, then that person,
18 if they don't consent, can leave; is that
19 accurate?

20 A. Well, if it's a consensual encounter,
21 yes, they can leave. If the officers feel
22 there's something more to make it into the realm
23 of the investigative stop, then they need to
24 comply with the investigation and either clear
25 themselves, or the officers will figure out that

1 they do or do not have anything to do with it.

2 Q. Okay. And to take it from one realm to
3 the other, they have to have reasonable
4 suspicion?

5 A. Something more is -- needs to come up.

6 Some other circumstance would come up.

7 Q. Okay. Are there different chains of
8 command that a -- that you use of mace would go
9 through, depending on whether or not a suspect
10 was handcuffed when they were maced?

11 A. A use of mace against a handcuffed?

12 It's the same chain of command, but it would go
13 up to the deputy chief's level --

14 Q. Okay.

15 A. -- beyond the commander level.

16 Q. Okay. And from the -- from this
17 routing sheet, does it look like this went to
18 that particular level?

19 A. No.

20 Q. Okay.

21 A. Doesn't indicate that on the routing
22 sheet, no.

23 Q. Okay. And if a sus -- if a suspect who
24 was maced alleges they were handcuffed when they
25 were maced, and an officer says that they were

1 maced and then handcuffed, which route would --
2 which chain of command would the -- would you put
3 that in?

4 MS. LLOYD: Again, objection as to form
5 and as to where this information is.

6 Is this a use-of-force investigation?

7 A. Yeah. Because that -- that sounds to
8 me like something that would be an internal
9 affairs investigation, later on, that wouldn't be
10 on the initial use-of-mace or use-of-force
11 investigation.

12 Is that what you're asking?

13 BY MS. BRATTON:

14 Q. Okay. Well, I guess that just answered
15 part of the question.

16 So it would only go -- if an -- it
17 would only initially, without a citizen making
18 the complaint that they were handcuffed at the
19 time, the chain of command would just be based
20 off of the officer's report, initially?

21 MS. LLOYD: Use-of-force
22 investigation.

23 A. Use of mace? Use of force?

24 BY MS. BRATTON:

25 Q. Would only be based on the officer's

1 report at that time?

2 A. I don't know what you mean.

3 Q. When an officer uses mace, they have to
4 write out the use-of-force report, correct?

5 A. Right.

6 Q. Okay.

7 A. The supervisor would talk to the -- I
8 don't want to point to him -- would talk to the
9 suspect also.

10 Q. Okay.

11 A. So it's -- it's totality of the
12 supervisor, the at-scene supervisor's
13 investigation.

14 Q. Okay. So then it doesn't necessarily
15 have to go through internal affairs for if there
16 was a conflicting account given by the suspect
17 and the officer's use-of-force report?

18 A. No. It would not necessarily have to
19 go to it. Internal affairs is for internal and
20 external citizen complaint investigations.

21 Q. Okay. So if a suspect said, I was
22 handcuffed when the officer maced me, and an
23 officer says, I maced him first and then I
24 handcuffed him, which -- who would decide what --
25 if that went to the deputy chief or not?

1 A. If it was written up by the at-scene
2 supervisor as a use of mace, it would stop there,
3 if that makes sense. It would stop at me, at the
4 commander level, and I would send to internal
5 affairs.

6 It would only go to the deputy chief if
7 it was, you know, clear that the person was
8 handcuffed.

9 I -- I don't really know what you're
10 saying. Because that -- that detail might come
11 up, but again, that's more of an internal affairs
12 allegation.

13 Q. Okay. So you --

14 A. If it was the at-scene supervisor and
15 lieutenant that made that determination that this
16 was a use of mace -- or it was a use of mace --
17 not seeing the packet, I don't know.

18 We're talking hypothetical, right --

19 Q. Yeah.

20 A. -- just use of mace?

21 Q. Uh-huh.

22 A. So --

23 Q. So then you would send it to internal
24 affairs, and internal affairs would do the
25 investigation?

1 A. No.

2 Q. So it would just through internal
3 affairs and stop?

4 A. If it's -- if I had a use of mace --
5 just a use of force, if it's a use of mace, I
6 would send it to internal affairs, as I stated
7 way back in the beginning of this.

8 I -- I don't know if they file it,
9 if -- for staff purposes. But they take it and
10 they maintain it. What they do with it, that's
11 in IA. But that's where it goes on just a use of
12 mace -- not handcuffing, just a use of mace.

13 Q. Okay. So what I'm asking is, who makes
14 the decision between whether it goes to internal
15 affairs or whether it goes to the assistant
16 chief -- or deputy chief --

17 A. Uh-huh.

18 Q. -- if there is a dispute between the
19 version of facts that the suspect gives -- I'm
20 handcuffed and maced -- or the version of facts
21 that the officer puts in their use-of-force
22 report, that they're maced and then handcuffed?

23 MS. LLOYD: Again, objection as to
24 form.

25 And just for clarification, which she's

1 already testified, the supervisor is the one
2 who is investigating the use of force.

3 A. The at-scene supervisor makes the
4 determination.

5 And that's why we have the internal
6 affairs route. If the -- sorry. If the suspect
7 feels that they were wronged or that something
8 improper happened. That's why we have internal
9 affairs. It's separate. It's a separate entity
10 from chain of command.

11 Again, not seeing this, if it indicated
12 handcuff or whatever, it came in as a use of
13 force, that determination was made by the
14 at-scene supervisor of the investigation, through
15 the course of their in-person interviews, their
16 observations at the scene, just everything that
17 they saw while they were doing their
18 investigation.

19 BY MS. BRATTON:

20 Q. Okay. I don't know if I'm asking this
21 question wrong or not.

22 If a person -- if a suspect would not
23 give -- never calls internal affairs, but on
24 scene they give a statement that I was handcuffed
25 first, and then maced --

1 A. Uh-huh.

2 Q. -- and then the officer puts in her
3 use-of-force report the opposite, who would be
4 the -- the person who makes the decision about
5 whether or not you're the last person to review
6 it or whether or not the deputy chief -- just the
7 decision itself, not whether or not it was
8 justified, but who would be the last level of
9 review for that?

10 A. When the at-scene supervisor
11 commences their use-of-mace or use-of-force
12 investigation, they make that determination from
13 the statements that they gather at the scene,
14 what's happening at the scene.

15 They would title their investigation
16 either use of force, level 2, mace, or use of
17 force against handcuffed prisoner. That
18 determination is made at the scene by the
19 supervisor who's with the suspect, who's with the
20 officers, who sees what's going on, who looks at
21 the physical evidence.

22 And that's how the letter comes up. So
23 that determination is made when they -- the
24 determination is made when they do the
25 investigation.

1 Q. Okay. Okay. Can you describe the
2 three-second rule that you all use for use of --
3 for an individual complying with commands?

4 A. What are you referring to?

5 Q. Yesterday, trainer -- what is his
6 name?

7 MS. LLOYD: Sergeant Cheatham?

8 MS. BRATTON: Yes.

9 BY MS. BRATTON:

10 Q. Sergeant Cheatham mentioned the
11 three-second rule for compliance.

12 A. I'm not sure what he's referring to.

13 That three -- that phrase, three-second
14 rule, is not really in our policies. It's
15 something that I'm sure he teaches, but I
16 don't know exactly what he referred to when he
17 told you that. I really can't comment on what he
18 said.

19 Q. Okay. How long should an officer give
20 a person to comply after they make a command?

21 MS. LLOYD: Objection as to form.

22 A. There's no absolute. That's
23 situational. It depends on various factors.

24 BY MS. BRATTON:

25 Q. Okay. So then are you all trained to

1 give somebody three seconds or --

2 MS. LLOYD: Objection as to form, asked
3 and answered.

4 A. Again, that -- I'm not sure what he
5 testified to. I don't know what his phrasing is.
6 That's not a term that I use. But it's
7 situational.

8 There's one -- it depends what the
9 person's state is, the aggressiveness that's
10 being displayed, type of run. There's so many
11 factors involved in it, you can't just absolute
12 anything.

13 Q. So then I guess the answer would be,
14 you all are not trained on -- to give a suspect
15 three seconds to comply?

16 MS. LLOYD: Again, objection as to
17 form, asked and answered.

18 A. That is Sergeant Cheatham's area of
19 expertise. He was the DT sergeant. If he's
20 using a certain phrase, and we're saying the same
21 thing, again, I don't know exactly what the
22 whole -- like how he said what he said to you.

23 BY MS. BRATTON:

24 Q. Okay. My question to him was, if a
25 suspect is complying, how long do you give them

1 to comply. And he said that Columbus police have
2 a three-second rule.

3 So I'm asking, what is your
4 understanding of how long -- if a -- and let me
5 compartmentalize it, because that was broad.

6 If a person is fully compliant with --
7 with you, and you give them a command, how long
8 from -- how you are trained -- are you supposed
9 to give them to comply with your command?

10 MS. LLOYD: Objection. Asked and
11 answered.

12 A. Again, it's a reasonableness. You
13 can't put -- you -- again, I don't understand
14 exactly what he told you about the three seconds.
15 I'm not the DT, the defensive tactics sergeant.
16 What his phrasing and terminology is, I don't
17 know.

18 It's all down to reasonableness. It
19 depends on what they're doing. Are they
20 clenching up? There's so many factors on
21 suspects' actions, scene. There's -- there's so
22 many variables involved in this, you -- it's
23 difficult to put an absolute time on that.

24 BY MS. BRATTON:

25 Q. Okay. Do you remember, in any of your

1 training, anything about giving someone three
2 seconds to comply?

3 A. We talked about reasonableness. I
4 don't know that I personally was told a
5 three-second. But you must remember, I went to
6 the academy 33 years ago. So Sergeant Cheatham
7 wasn't on the department then.

8 But, again, that's a term he's using in
9 a training situation that, to me, comes down to
10 reasonableness. And that's basically -- three
11 seconds is not a long period of time.

12 BY MS. BRATTON:

13 Q. Okay. Do you still do any patrol on
14 the -- are you -- I guess still on the street
15 is -- I don't know the correct term.

16 A. I'm not in a marked cruiser.

17 Q. Okay.

18 A. I go out with officers now and again,
19 just to go out. But, no, I'm not on patrol. No
20 commanders are on patrol --

21 Q. Okay.

22 A. -- a routine patrol. Even though
23 they're out and about, they're not assigned a
24 cruiser.

25 Q. Okay. And when was the last time that

1 you conducted a traffic stop where you took
2 someone out of the car?

3 A. I don't have a marked cruiser, so I'm
4 not permitted to conduct a traffic stop.

5 Q. Okay. Have you rode with anyone who --

6 A. Not since I've been with the strategic
7 response bureau, because that's not -- we're
8 not -- we're not patrol. We're assigned to
9 patrol, but we're not patrolling and taking runs.
10 We have different responsibilities.

11 Q. Okay. And can the strategic response
12 make an arrest?

13 A. Yeah, they're sworn officers. Yes,
14 they can.

15 Q. Okay.

16 A. They're officers. I'm sorry.

17 Q. Okay. No, I was just trying to see
18 what they are.

19 A. Yeah, you don't know what they are.
20 So, yeah, they do community relations, things
21 like that, school resource officers, recruiting
22 units, things like that.

23 Q. Okay.

24 A. But, yes, they clearly have -- and they
25 do make arrests.

1 Q. Okay. And are they in regular uniform
2 or different?

3 A. They're all in uniform, except for the
4 mounted, they're in a different uniform, but
5 they're still in uniform.

6 Q. Okay.

7 MS. BRATTON: All right. I think I'm
8 done, but just give me a minute.

9 (A recess was taken from 11:29 to
10 11:34.)

11 MS. BRATTON: I don't have any further
12 questions.

13 THE REPORTER: Do you want signature if
14 it's ordered?

15 MS. LLOYD: Yes.

16

17

 COMMANDER SUZANNE CURMODE
18

19

- - -

20 DEPOSITION ADJOURNED AT 11:34 A.M.
21

- - -

22

23

24

25

1 C E R T I F I C A T E

2

3 STATE OF OHIO :
4 COUNTY OF HAMILTON : SS

5 I, Wendy Scott, the undersigned, a duly
6 qualified and commissioned notary public within
7 and for the State of Ohio, do certify that before
8 the giving of her deposition, COMMANDER SUZANNE
9 CURMODE was by me first duly sworn to depose the
10 truth, the whole truth and nothing but the truth;
11 that the foregoing is the deposition given at
12 said time and place by COMMANDER SUZANNE CURMODE;
13 that I am neither a relative of nor employee of
14 any of the parties or their counsel, and have no
15 interest whatever in the result of the action.

16 IN WITNESS WHEREOF, I hereunto set my hand
17 and official seal of office at Cincinnati, Ohio,
18 this 9th day of October 2017.

19

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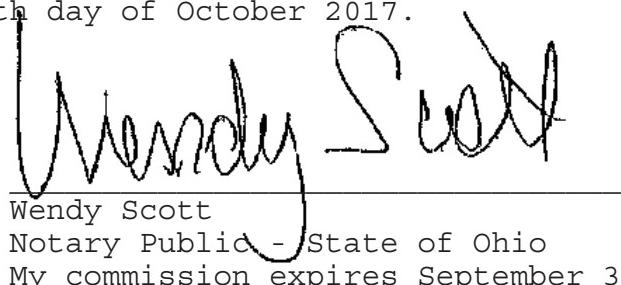
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Wendy Scott
Notary Public - State of Ohio
My commission expires September 3, 2022

1

E R R A T A S H E E T

2

DEPOSITION OF: COMMANDER SUZANNE CURMODE
TAKEN: SEPTEMBER 28, 2017

3

4

Please make the following corrections to my
deposition transcript:

5

6

Page	Line Number	Correction Made
7		_____
8		_____
9		_____
10		_____
11		_____
12		_____
13		_____
14		_____
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16		_____
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12

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18

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23

24

25 Witness Signature _____

Date _____

0
0 21:2
1
10 30:12,13,16
10:09 61:4
10:12 61:5
10:30 62:23 80:9 105:17
11/26/14 47:2,5
110 23:8
11:29 122:9
11:34 122:10,20
120 8:14
17 7:1
1984 7:5
1st 58:16
2
2 20:23 21:2,14 28:2,6
48:5,21 54:12,18,22 57:16
83:17 116:16
2000s 24:15
2001 7:9
2014 8:2,3 26:10 87:12
22 61:15,18 77:15,16
2756 55:18
3
3 56:9 59:24 60:5,20,22
61:8,19 77:15
30 106:13
32 61:19
33 21:5,9 46:22,23 57:8
120:6
4
40 106:13
44 61:15 77:16
45 61:19
7
784 55:4
790 83:17
A
A's 52:7 53:13
A.M. 122:20
ability 5:13 13:25 59:8,17
93:15,21 95:2

able 14:10 28:1 44:11 64:9
94:7

absolute 102:16 107:23
117:22 118:11 119:23

academy 10:24 120:6

account 35:16 112:16

accurate 18:21 71:17 73:9
96:20 97:9 99:22 109:19

act 31:7 34:13,22

acted 41:16 42:22 45:8

acting 24:5 81:9

action 58:23 64:14

actions 16:7 27:16 31:17
34:7 35:19 40:19 44:12
54:8 63:5 74:9,11 89:10
119:21

activity 14:21 16:18 104:7
105:12

actual 62:12

additional 53:16 94:4,11

adhere 33:6

ADJOURNED 122:20

admin 7:23

affairs 9:7 11:15,20 15:16
18:1,3,13,18,25 19:5,11
20:3 23:22 43:4 44:2,4,11,
16 47:15,16 49:1 92:22
93:11,18,21,25 95:3,25
96:4,6,25 97:8 98:11
111:9 112:15,19 113:5,11,
24 114:3,6,15 115:6,9,23

affairs' 94:22

afoot 14:21

aggressiveness 27:17
35:20 118:9

ago 72:18 120:6

agree 77:22 78:10

ahead 89:24 90:3

allegation 92:5,15 93:14
113:12

alleged 10:9 20:1 96:2

alleges 110:24

alley 68:9

allow 36:10

allowed 73:19

Amendment 27:4

amiss 100:25 101:8

anonymous 102:21

answer 4:21 9:22,23 12:8
17:10 25:3,15,16 26:18
32:12 33:18,23 36:17
38:5,9 39:5 40:3 41:5
62:21,24 63:7 65:22,24
72:9 88:1 94:10 102:4
105:22 109:1,11 118:13

answered 17:9 26:5 28:10
29:9 33:3,11 34:9 39:21
40:25 49:17 52:19 90:15
98:8 106:11,22 107:12
108:5 109:10 111:14
118:3,17 119:11

answering 103:8

answers 13:15 22:25

anybody 6:2 72:4,25 75:15
102:11,19 103:13,14,20

appear 48:5

appears 63:24

apples 58:4

applicable 87:1

apply 30:9 34:14

approval 19:18 95:13,14

approximately 7:6

area 25:18,20 94:19 97:25
108:18 118:18

areas 7:21 24:25

argue 12:5

arrest 40:21 42:1,10,12
49:7 81:25 82:2,23 83:2,4,
5,6,18,23,24 84:2,6,10
85:5,21 121:12

arrested 40:16 41:24
42:18 56:20 84:14,17,18,
20,23

arrestee 84:20

arrests 121:25

articulable 63:17

asked 17:9 22:19 26:5
29:8 33:3,11 34:9 39:21
40:24 49:16 53:6 62:1,15
64:3 90:15 93:2,4 94:22
100:21 104:19 106:15,22
118:2,17 119:10

asking 6:8 8:21 13:4 14:7
15:24 17:6 20:13 22:14
26:8,9 29:2 32:4,25 34:4
43:15,16 44:19,23 46:10,
11 53:11,22 58:8 64:10,
11,18 65:5 70:9 80:25
83:22 84:15 106:19 107:6
108:2,4,5 111:12 114:13
115:20 119:3

assess 35:2,5

assigned 8:10 120:23
121:8

assignment 7:20

assistant 114:15

associated 49:7

assume 53:25 54:4 68:13,
17,22,24 69:1,4 76:3 89:2

assuming 47:17 62:23
84:1 91:24

assumption 53:15
at-scene 112:12 113:1,14
 115:3,14 116:10
attached 21:23 22:1 40:10
 49:10 51:17 54:19 86:15
 90:16,17,19
attachment 51:16
attachments 87:2
attempt 63:24
attorney 6:1
audio 5:24 22:9 51:17
 61:16,20 62:9 76:13 77:19
available 22:10 82:11
 91:19 92:17
Avenue 55:18
aware 23:18 48:25

B

B's 52:8 53:14
bachelor's 6:22
back 5:6 22:23 39:23
 45:12 46:21 51:23,24
 52:6,7,12,23 53:12,13,16
 54:1 59:12 63:14 66:10
 73:5 80:12 83:8 85:19
 93:23 95:2 97:6 106:2
 114:7
badgering 106:10
bantering 52:23
bar 66:11 77:11,24
base 106:5,17 107:7
based 15:11,21 16:1,17
 26:1 27:16 42:1 56:10
 68:25 88:6 92:18 105:16
 111:19,25
basically 32:7 120:10
basis 13:14
Bates 55:1
beginning 57:19 114:7
behavior 68:25
believe 10:16 23:22 40:24
 44:23 69:4 84:19 90:14
 92:4 102:1 108:23
beyond 59:8 110:15
big 17:15 27:21 81:23
 106:24 107:17,18
bit 99:7
black 66:7 69:11,12 70:5,8
 78:5,6 79:5,6 87:25 101:5,
 17 102:22,25 103:1
black-and-white 37:25
 38:13 40:3
black-and-whiting 107:21
Blair 68:7 69:3,6

Blair's 69:21,25
blanche 38:5
body 87:8,12
bother 85:12
bottom 54:25
BRATTON 4:5 9:21 10:19
 11:12,19,25 12:6 13:5,17
 14:4 15:20 17:4,11 18:16
 21:7 23:17,25 24:12 25:5,
 11 26:7 27:23 28:4,23
 29:13 30:15 31:9,18 32:1,
 11,24 33:8,16 34:1,17
 35:6,14 36:6,19 37:2,21
 38:23 39:9 40:6 41:3
 42:17 43:15,21 44:19
 45:4,5,12,18 46:20 48:1
 49:19 53:9,19 54:12,16
 55:16 56:4 57:3 58:6,7,15,
 19 60:6,10,13,17,19,22,25
 61:2,6,17,21 62:7 63:9
 64:2,17,23 65:3 66:15,23
 67:25 68:16,20,23 69:24
 71:10 72:21 74:19 75:6
 76:8 77:6,14,20 78:9
 79:19 81:17,24 82:20
 83:21 84:16,25 85:8,22
 86:13 87:16 88:3 89:8,21
 90:23 91:11 92:9 98:6
 99:14 100:3 101:13 102:7
 103:6 104:11 105:3
 106:14 107:4 109:8
 111:13,24 115:19 117:8,9,
 24 118:23 119:24 120:12
 122:7,11
break 5:8,10 41:8 61:3
broad 65:21 119:5
build 72:14
building 63:15 69:8,10
 78:23,25 79:4
bureau 7:18,19,20 8:4 9:7
 13:11 44:11 47:15,16
 121:7
Bureaus 7:15
burglary 61:11

C

C-u-r-m-o-d-e 4:16
call 68:3 69:2,7 70:14
 72:18 77:25 104:8
called 65:13 67:1,6,7
 70:13 77:7,9,22
caller 79:25
calling 71:18
calls 63:2,3 66:6 72:13
 80:11,12 101:17 102:20
 115:23

cam 87:8,18,20 88:5
cameras 87:8
cams 87:12
car 36:8,10,11,12,16,21,22
 37:5,7,9,11 39:11,12,17
 40:13,14 41:22 69:7 70:16
 79:25 80:7 105:18 121:2
career 46:12
carte 38:5
case 11:14 12:19 13:12
 18:5 40:7 52:16 54:9
 64:11 66:4 83:3 99:6
cases 12:19 15:7 18:7
certain 9:8 21:22 26:17,18
 32:18 82:11 118:20
chain 9:5,7 17:24 18:2,6,
 12 19:2,5,12,14,20,23
 20:5,25 22:22 23:5 43:18,
 24,25 48:6,22 50:2 51:24
 52:17 58:1 59:18 92:13
 94:8,13,22 96:15 110:12
 111:2,19 115:10
chain-of-command 47:23
 57:25 62:5
chains 110:7
change 24:25 25:1 26:11,
 15 65:14 80:6 103:2
 105:25
changed 25:19 26:2,8
 72:18
changes 24:20 65:20 67:5
characterization 33:23
 66:14
charge 43:7 45:22,24
charged 45:1,2,20 46:3,17
 56:20
charging 42:22 45:16
Cheatham 117:7,10 120:6
Cheatham's 118:18
check-boxes 82:7
chief 20:21 97:1 112:25
 113:6 114:16 116:6
chief's 110:13
circumstance 34:21 37:4,8
 85:15 110:6
circumstances 9:15 16:22
 23:23 35:10,11,13,19
 36:15 37:1,14 40:2 56:13
 79:17 85:6 106:23
circumstantial 27:16
citizen 9:2 10:9 11:2,3
 13:8 14:1,16 15:2 18:13,
 24 20:4 31:3,21 36:21
 37:3,11 39:15,18 63:3
 73:24 74:9 91:12,17 92:4
 102:20 107:14 111:17

112:20
citizens 33:9
City 6:13
clar 100:22
clarif 94:15
clarification 52:1,20 53:4,
 8 59:11,16 74:18 94:16,17
 95:5 96:23 101:1,2,9,12
 114:25
clarifications 22:25
clarify 29:3 94:24 103:10
clarifying 49:14 94:21
clear 5:7 10:14 24:9 34:3
 48:15,17 68:6 77:4 83:12
 109:24 113:7
clearer 15:11 108:8
clearly 34:11 108:3 121:24
clenching 119:20
closed 77:24
clothing 63:12 70:18
coat 66:9 69:13 78:6 79:9
collects 86:9
Columbus 4:12 6:13,17
 23:10 24:14 107:13 119:1
combative 28:8
come 9:4,8 12:19 17:22
 18:10,11,12,14 19:9,10,11
 20:5 25:3 27:19 38:21
 39:10 43:23,24 44:1 54:7
 90:9,12 92:21 93:5,12
 98:3 105:23 110:5,6
 113:10
comes 19:18 24:22 41:14
 75:17 91:14 93:16 98:13
 99:9 116:22 120:9
coming 65:19 76:5 91:9
command 9:5,8 17:24
 18:3,6,12 19:3,6,12,14,20,
 23 20:5,25 22:22 23:6
 36:4,9 37:19,24 42:24
 43:18,25 48:6,22 50:2
 51:24 52:17 58:2 59:18
 92:13 94:8,13,22 110:8,12
 111:2,19 115:10 117:20
 119:7,9
commander 4:1,13,14
 6:25 7:9 8:2,3,9,12 9:9
 20:7 21:10 46:13 63:25
 64:5 75:25 102:17 104:20
 110:15 113:4 122:17
commanders 120:20
commands 36:2 37:16
 38:10,18 39:10,17,19
 40:17 42:2,15,20 45:9
 117:3

commences 116:11
comment 117:17
community 8:11 10:24
 121:20
compared 49:23 52:8
comparing 29:15
compartmentalize 119:5
complains 15:2
complaint 9:2 11:4 17:21,
 25 18:14,21,24 19:6,8
 20:4 49:1,5 88:6 92:4
 101:22 111:18 112:20
complaints 9:4,6
complete 41:11 72:14 86:4
 87:4 98:14
completed 58:2
completely 70:17 97:18
compliance 34:13 117:11
compliant 28:18 29:5,10
 37:4 95:25 119:6
complicated 70:25
comply 27:3 32:22 34:19
 109:24 117:20 118:15
 119:1,9 120:2
complying 39:2 117:3
 118:25
concentrate 5:13
concern 59:15
concerns 51:25 94:9
conclusion 21:20 54:8
 80:21 90:10
conduct 8:19 13:10 30:8
 55:7 121:4
conducted 48:24 96:20
 98:9 121:1
conflicting 38:18,22 42:20
 45:9 49:15 112:16
conformance 65:8
confronted 32:8
confusion 15:18
connection 62:3,4
consensual 105:15 109:20
consent 109:18
consider 15:25 17:7
considered 80:23
constantly 25:9
constitution 10:23 11:17
 12:2
constitutional 9:18 10:21
 11:5,23 26:20
contact 58:12 59:14
 108:19
contain 81:19
contained 89:2 98:19

contains 41:20 87:13
continuum 20:10,14
 34:15,19
contribute 105:2
control 28:7
conversation 73:12
convoluted 5:2
correct 8:6 10:21 12:12,
 16,20 15:22 20:23 21:15
 25:22 26:21 30:23 34:21
 41:17 44:4 52:3 73:16
 74:23 93:17 98:20 100:11
 112:4 120:15
counsel 6:10 64:3,9,10,11
 69:20
counsel's 68:25
couple 7:20 30:3,9
course 17:14 69:16 115:15
court 13:12 43:9 44:18
courts 15:14
covered 30:7
crime 27:18 35:21 43:6
 45:1 46:3 107:16 108:11,
 13,14 109:7,15,17
criminal 14:20 16:18
 45:22,24 49:22 104:7
 105:12
cruiser 87:8,18,20 88:4
 120:16,24 121:3
Curmode 4:1,10,14 21:11
 64:5 102:17 104:20
 122:17
Curmode's 63:25 75:25
current 7:20
currently 23:7

D

Dale 6:3
dark 62:23 102:21
date 47:1
dates 47:10
day 47:8,12
de-escalation 28:12,13,16
deal 18:8 59:19
decide 112:24
decides 27:19 85:5 87:14
deciding 35:16 64:13 65:8
decision 35:12 86:17,22
 89:13 90:5 114:14 116:4,7
decision-maker 20:8,15,
 16 21:1 64:6 95:16
decision-making 63:5
 64:13 100:7
decisions 13:12 15:15
 64:5,7,8

deemed 39:18 87:2,9
defensive 119:15
definitely 69:23
degree 6:22
departing 99:5
department 4:12 23:11
 24:13,14 25:13 33:20 34:5
 120:7
departments 7:14
depend 35:10
depending 51:14 52:9
 110:9
depends 8:17,22 9:15
 20:11 36:15,25 37:13 44:5
 53:6 82:5 85:15 87:22
 88:24 117:23 118:8
 119:19
deposed 4:3
deposition 4:18 5:5,18
 21:5 61:8 122:20
depositions 5:16 66:3
deputy 20:21 96:25 110:13
 112:25 113:6 114:16
 116:6
describe 117:1
described 61:25
description 61:24 62:14
 69:15 70:3 72:6 73:3 74:5
 98:24 103:16 105:18
descriptions 66:25 71:16
 84:12
descriptor 104:16
desist 27:13
detail 23:19 55:9 81:19
 82:25 113:10
details 36:17 82:9,10,12
 84:2 87:6
detain 73:13,19,21 91:21
 95:22
detained 73:8 91:18 92:14
detaining 16:9 93:6
detention 10:9 14:20,23
 15:3 16:11,12,15,16
 17:18,22 18:11 44:20
 92:21 95:1,24 96:3 100:16
 104:15,22
detentions 9:19 12:24 18:8
determination 16:25
 29:17 30:2 40:16,18 42:4,
 21 43:5 44:25 45:7,22
 46:1 58:22 59:1 63:15,18
 92:19 100:9 103:5 104:2,
 14 113:15 115:4,13
 116:12,18,23,24
determinations 87:10

determine 16:15 29:20
 35:7 41:15 73:3 74:8
 85:19 89:9 91:19
determined 43:8
developed 66:3
differ 85:3,7
differed 84:22
difference 83:9
different 7:12,21 8:12
 18:14,15 23:23 25:2,7,13
 30:3,9 40:2 44:7 65:23
 70:17,18 82:12 95:20,21
 103:9 108:3,18 110:7
 121:10 122:2,4
differs 85:11
difficult 62:21 63:7 72:19
 80:15 85:19 88:1 119:23
direct 33:15
directive 33:5
directives 30:8
directly 43:18
directs 9:23
discrepancy 51:20 71:15
dispatch 59:25 60:7 61:10,
 11,25 62:11,14 63:11,13
 65:11,18 66:6,12,14 70:4
 71:4 72:2 74:23 75:17,18
 76:22 77:7,21,22,25 78:1,
 10 79:12,21,23 80:5 84:21
 85:4,11,25 88:19,22 89:23
 90:7 91:3 94:7 95:3 97:19,
 21 101:17 102:3,12,13
 103:22,23,24 104:8,17
dispatch's 101:15
dispatched 68:4 88:20
 103:25 107:15
dispel 73:20
displayed 118:10
disposition 9:11
dispute 79:3 91:1,8,15,16,
 25 92:1,3,7,20 114:18
disputing 91:9 92:8
distractions 5:12
division 15:13 30:8
divisional 15:17
document 62:19
documentation 53:3
documenting 23:23
documents 5:17 23:19
 51:16
doing 13:24 25:9 27:14
 81:10 98:10 115:17
 119:19
door 36:22 39:11 40:13
 41:22

drive 102:24
driving 69:14 79:2
drove 79:3
DT 118:19 119:15
duly 4:2
duties 8:1,8 97:15

E

e-mail 52:12,19
earlier 93:1,4 105:14
early 7:9
easier 15:10
Eckenrode 50:5,6
education 6:21
either 109:24 116:16
eliminated 105:11
encounter 105:15 109:20
enforcement 6:15,16
ensure 34:20,25
ensuring 96:19
entire 47:7 53:11 56:8,12
 57:5 58:21,25 59:5 81:2,4
entirety 69:22
entity 115:9
escalate 28:18,21
established 58:1 75:15
 79:5 81:1
event 6:10 26:18
evidence 116:21
evolve 105:25
exact 26:14 44:23 99:2
 102:23
exactly 8:21 13:3 14:6
 29:2 45:15 53:21 66:20,21
 117:16 118:21 119:14
EXAMINATION 4:4
examined 4:3
example 36:5 83:13
excessive 20:2
Excuse 57:21 99:23
exhibit 21:5,9 30:12,13,16
 46:22 54:22 55:12 56:9
 57:8 59:24 60:5,20,22
 61:8,19 77:15 83:17
exist 29:11
existed 88:16
exists 35:8
expect 26:23 86:21 87:5,
 15 88:7,15 91:2
expectations 86:7,11
expected 82:15,25 85:9
experience 6:19 81:14
 99:21

experienced 24:22
experiencing 80:18
expertise 25:18 118:19
explain 7:3 60:3
extent 11:7
external 112:20
extra 86:19
extreme 71:1

F

face 58:10
face-to-face 52:18
faced 32:18
fact 68:13 71:9 72:20
 74:24 75:1,18 80:14,16
 100:20 102:18
factor 108:23
factors 27:18 35:15 80:22
 98:2 105:23 107:10
 117:23 118:11 119:20
facts 64:4,11 66:2 70:10,
 11 87:5 98:19 99:6
 100:10,16 114:19,20
false 69:1
far 12:24 75:25 86:8
 103:25
feel 22:13 25:2 85:16 94:1
 95:4,7 97:5 103:8 109:21
feels 115:7
fellow 31:4,21
felt 77:3
female 66:7
figure 109:25
file 48:11 114:8
filed 49:1,4
filings 47:21 48:8
final 20:8,15,16 21:1 64:6
 93:16 95:15
find 82:10
finish 5:9
first 37:24 82:4 112:23
 115:25
fluid 38:7 65:12 103:2
follow 26:20,22,25 31:25
 34:25 59:9 72:15
follow-up 22:11,15,21,23,
 25 49:20 53:16,24 62:1,15
 70:19 75:3,20 76:24 77:4,
 5 79:10 80:20,25 99:3
 100:18
followed 49:21 56:23
 57:18 70:21
following 39:18 40:17
 42:1,19,23 52:17 108:4

follows 4:3
force 5:21 7:19 20:1,2,8,9,
 10,11,23 21:2 23:4,10,19,
 24 24:4,17,21,22 26:21
 27:5,11,15 28:2 29:7,11,
 15,16,21 30:22 31:1,20
 32:21,22 33:4,7,15,21
 34:6,16,19,21,23 35:3,8,
 17 36:2 44:20 48:5,21
 54:18 56:11,14,21 57:10,
 16,20 59:1,19 62:5 64:16,
 20 111:23 114:5 115:2,13
 116:16,17
forever 104:6
forgot 102:6
form 9:20 10:12 13:2,9
 14:2 15:9 17:2,9 18:9
 23:15,21 24:10,23 25:8
 26:5 27:12 28:3,20 29:8
 31:5,13,23 32:10,20 35:4,
 9 36:3,13 37:18 38:19
 39:4,21 40:22 42:7 43:1
 44:14 53:5,17 55:11 56:1,
 24 57:22 58:14,18 62:2,16
 64:22 69:19 70:24,25 72:7
 74:14 75:4,23 76:25 77:12
 79:14 81:21 82:17 83:7
 84:2,13 85:2,13 86:10,25
 87:11,21 88:23 89:15
 90:13 91:5,23 97:22 99:5
 100:2,19 101:25 102:14
 104:5 105:7 106:7 111:4
 114:24 117:21 118:2,17

forms 83:16 87:1
forth 52:24
forward 21:10 47:14
 48:10
forwarded 47:4,11,13
 48:7
forwarding 48:9
found 21:13
four 7:7
Fourth 27:4
frame 26:14 67:8
frames 26:12 66:22
free 73:14
front 41:14 74:4
fully 29:5,10 119:6
further 10:5 54:1 122:11

G

garbled 68:3
gather 116:13
GB 55:1
GB784 55:3

gear 38:2
gender 103:25
general 70:9,20
generalities 87:24
get all 98:11
getting 31:20 103:11 106:9
give 21:8 36:1,5,8,9,17
 37:16 38:17 41:8 51:25
 83:13 93:24 94:23 115:23,
 24 117:19 118:1,14,25
 119:7,9 122:8
given 12:15 34:21 40:4,12
 52:21 53:8 78:18 80:4
 94:20 97:20 112:16
gives 114:19
giving 38:9 79:23 99:12
 105:22 107:24 120:1
go 5:6 6:9 9:6 16:4 19:20,
 23 20:20,21 22:22,24
 39:23 43:17,23,25 44:10
 45:12 46:21 52:7,12
 53:12,13 54:1 65:14 73:5
 83:8,17 85:19,25 88:21
 89:24 90:3 92:22 93:22,23
 94:7 95:2,25 96:3,25
 98:11 102:23 110:8,12
 111:16 112:15,19 113:6
 120:18,19
goes 17:25 18:17 19:13
 20:3 45:24 64:6,12 82:6
 114:11,14,15
going 11:6 12:5 30:19
 33:24 35:25 39:6,25 43:8
 50:7 52:19 57:23 61:1,7,
 14,18 63:22,23 64:21
 67:10,22 71:2,21,22 77:15
 80:12 81:14 91:22 94:23,
 24 96:23 101:6 102:24
 104:25 105:2 106:2
 108:12,13 116:20
Good 4:6
Gotcha 54:24
gotten 26:13
govern 30:6,8 31:17 32:21
 33:4,14,20
governing 24:25
governs 34:6
gray 66:9 78:6
ground 38:25
guess 7:13 9:3,25 10:7
 12:19 17:19 31:19 32:4,25
 34:4 53:2,10 71:11 74:20
 83:8,17 86:20 108:1
 111:14 118:13 120:14
guide 33:6 67:2 71:4,18,19
 72:12,13,14 89:6

guilty 43:6

H

hand 41:25

handcuff 115:12

handcuffed 110:10,11,24
111:1,18 112:22,24 113:8

114:20,22 115:24 116:17

handcuffing 114:12

handled 9:14

handles 19:6

happen 9:1 38:16 52:2
65:20 67:5 80:13 86:18,19
88:12 99:17 105:1,24

happened 53:14 54:6
56:19 67:4 80:14 115:8

happening 38:4 63:2
116:14

happens 89:6 105:1

hard 66:20

harm 31:3

harms 31:21

head 66:8 69:12 78:7 79:8
80:6

hear 66:20 99:24

heard 66:7

hearing 78:19,21

hey 59:15 70:21 86:16

hours 61:15,18 77:15

huh 108:23

hundred 23:7

hundred-and-some 8:14

hypothetical 64:3 65:21

71:1 76:3 79:15 81:3

87:24 91:24 99:12 107:2

113:18

hypothetically 85:18

I

IA 114:11

IAB 43:3 47:16,17 48:3,8,
9,10,22 50:7 60:15,21,23

identification 21:6 55:12

identified 55:13

II 57:11

illegal 92:21 96:2

impair 5:12

importance 33:1,19

important 34:18

impossible 62:24 80:15
101:25 102:4

improper 115:8

in-person 115:15

in-service 25:24

inaccurate 102:12

incident 6:2 50:8,16 55:8,
18 57:11 61:12 68:9 79:18
81:20 82:2,4,5,16,19 83:1,
5,10,12,14,23 88:5,10

include 86:4 87:14,18
88:7,8

included 65:17 82:15 84:8,
12 86:21 89:4

includes 87:1

indicate 110:21

indicated 115:11

indicating 104:6

individual 14:16 28:19
42:16 43:5 44:25 45:16
63:21 71:21 74:22 75:2,21
76:20 117:3

information 6:9 16:19

39:23 41:12,14,19 62:20
63:1 65:11,15,19 78:12
80:4 81:4 82:6 83:7 84:2,
8,22 86:8 87:13 89:3,11,
12,16 90:22 91:3,18 92:16
94:4,12,21 98:12 111:5

inherent 105:13

initial 66:12 79:20 92:6
102:1 111:10

initially 111:17,20

initiate 73:12

injury 57:12

inside 63:14

instance 53:3

instances 94:25 99:16

instituted 92:13

interaction 57:19,20

internal 8:25 9:7 10:16,17
11:8,14,15,20 15:15 17:23
18:1,3,13,17,25 19:5,10,
13 20:3 23:22 43:4,11,13,
16,18,22,24 44:1,2,3,4,11,
16 45:3 47:14,16 49:1
92:22 93:11,18,21,25
94:22 95:2,25 96:4,6,25
97:8 98:11 111:8 112:15,
19 113:4,11,23,24 114:2,
6,14 115:5,8,23

interview 49:11

interviews 96:7 115:15

investigate 9:17,25 11:21
20:6 64:19 76:21

investigated 15:4 93:13

investigates 19:11

investigating 15:16 73:23
82:22 87:3 91:6 100:14
104:22 115:2

investigation 6:5 8:17,23

10:1,4,5,8,12,18 11:3,9,16
19:16,18 21:22,23,25 22:7
42:9 43:12,14,16,17,23
44:5 45:3 46:9 47:9,18,24
48:25 49:10 51:1,2,5,13,
14,18,23 52:3 53:11,23
54:2 55:7 56:16,17 57:25
60:12,15,21 64:16 65:16
69:16 74:17 77:3 82:22,23
86:7,22,23 87:4 88:6

91:13,15 92:2,6,12,23
93:11 94:1 95:1,9,17,18,
22,24 96:13,19,22 97:16

98:9,19,21 99:19,20

100:15,25 109:24 111:6,9,
11,22 112:13 113:25
115:14,18 116:12,15,25

investigation's 47:22

investigations 8:16,18
10:16 11:2 16:10 44:16,17
93:5 95:21 96:25 97:8
112:20

investigative 14:19 15:12
16:19 90:21 109:23

investigator 86:8 88:7,21
91:2

involved 8:16 18:20 22:16
49:12 61:11,12 106:23
109:17 118:11 119:22

involvement 8:23

involving 6:3

issue 30:6 41:25 44:18
45:2 51:22 104:21

items 66:10 77:10,23

J

job 23:14 24:2

Johnson 11:20

joining 6:16

judge 39:24 43:9

judgement 80:12

judges 15:14,19

justice 24:14 25:13 42:19

justified 116:8

juvenile 7:19

K

keep 108:4

kind 4:22 8:18 13:12 14:9
28:6,9 67:1 72:22 79:24
81:22,23 88:2 92:7 99:20
107:23

kinds 72:18

know 4:21 5:3,6,9 11:10
12:11 13:15 22:5 23:9
25:12,17,21 26:6,14 29:1
31:11 42:11,12,15 48:13
50:1,9 51:7 67:7,21,23
68:14 72:9 76:20 78:15
79:16,24 80:8 83:15 88:16
89:19 90:7,17 91:8 92:7
95:9 97:23 98:4 108:7
112:2 113:7,9,17 114:8
115:20 117:16 118:5,21
119:17 120:4,15 121:19
knowing 39:6 81:15
known 39:24

L

lack 62:3 90:22
lacking 92:15 100:24
law 6:15,16 10:21 12:14
13:12 15:15,21 34:13
44:18
lawful 14:15,22 15:3 42:10
43:7
lead 92:3 108:23
leading 81:15
leave 73:15 109:18,21
led 83:1,2
leeway 97:20,23 98:4,5
legal 10:23 12:15,18,25
13:11 16:11,14,15,24 17:6
legality 17:7,13,14
lengthy 43:3,10 75:8
letter 116:22
level 9:9 20:14,20,23 21:1,
14 28:2,6 34:21 48:5,21
54:12,18 57:11,16 97:1,2
110:13,15,18 113:4 116:8,
16
levels 9:14 20:8 23:24
34:15
liaison 8:11
lieutenant 7:7,11 22:23
46:12 50:4 51:25 52:15,16
59:12,14 113:15
lieutenants 8:13
light-skinned 71:20 79:6
103:1
lighting 62:22
lights 68:8
limited 80:4 99:20
limits 13:7
line 21:10 54:10 103:24
104:16
listen 22:8 40:8 76:13,21
90:6 98:25

listened 61:22 62:9 77:17
listening 68:2,5
literally 75:1
little 23:7
LLOYD 9:20 10:11 11:6,
13,24 13:1,9 14:2 15:8
17:1,8 18:9 23:15,21
24:10,23 25:8 26:4 27:12
28:3,20 29:8 31:5,13,23
32:9,20 33:2,11,22 34:9
35:4,9 36:3,13,24 37:18
38:19 39:4,20 40:22 42:6,
25 43:20 44:13,22 45:10,
15 46:18 47:19 49:16
53:5,17 54:10,14 55:10,25
56:24 57:21 58:13,18
60:3,8,11,14,18,20,24
62:2,16 63:22 64:21 66:13
67:21 68:12,19,22 69:19
70:24 72:7 74:13 75:4,22
76:25 77:12 78:8 79:13
80:24 81:21 82:17 83:19
84:13,24 85:2,13 86:10,25
87:11,21 88:23 89:15
90:13 91:4,22 97:22 99:4,
23 100:2,19 101:24
102:14 104:4,18 105:7
106:7,21 109:6 111:4,21
114:23 117:7,21 118:2,16
119:10 122:15
loaded 79:25
loading 66:9 77:10,23
location 63:10 68:11 70:12
74:5 75:19 76:23 79:12
98:25 99:2 100:18 103:23
logical 87:7
long 5:2 6:12,24 65:1
69:25 72:18 102:4,9
117:19 118:25 119:4,7
120:11
look 5:20 11:2 16:3,23
17:3,14,17 24:8 30:11
35:18,24 40:8 52:7,12
53:12,13 56:2 58:20,21,25
59:5 65:9,17 71:3 74:16
76:17 77:3 88:13 89:1
90:16,19 92:6 93:23 94:5,
6 110:17
looked 5:15,16 46:15
62:10 88:9 95:10
looking 24:4 30:1 55:14
56:11 57:14,15,17 60:21
65:11 80:15,17 100:10
looks 47:1 55:15 116:20
lot 52:14 63:3 65:1 67:1
82:6 83:15 85:4,6 87:25

loud 4:21
lower 9:14

M

mace 20:17,23 21:14 28:6
54:12,15,18 57:11,16
58:10 59:1,8 110:8,11
111:23 112:3 113:2,16,20
114:4,5,12 116:16
maced 58:17,20 110:10,
24,25 111:1 112:22,23
114:20,22 115:25
main 27:25 30:6
maintain 114:10
making 29:16 63:16,18
85:20 87:9 89:13 111:17
male 70:5 102:22,25 103:1
males 66:7,9
man 69:11 78:5
manual 25:10
Marie 4:10
marked 21:5,8 59:24 61:8
120:16 121:3
match 61:24 62:13 70:23
72:5 73:2 74:5,6 103:15
matched 63:20 79:11
matches 74:6,24 75:1,18
76:22 98:23 100:17,23
101:4
material 15:13
matter 68:10 70:1,13,15
91:15
mean 28:15 29:18 35:5
36:4 37:8 38:11,21 46:6,8,
9 50:12 66:19 67:17 81:7
82:9,18 83:15 84:14 85:15
86:11 91:8 97:10,23 98:5
108:7 112:2
means 27:3
medication 5:12
men 78:5,6
mentioned 117:10
military 6:19,20
minute 61:3 122:8
minutes 61:15,19 77:16
mischaracterization 31:24
42:8 77:13 102:16 105:8
106:8
mischaracterize 63:25
mischaracterizing 10:17
43:13 106:16,19
misconduct 92:5
missing 93:20,22 95:4,8
96:22 97:5

misstating 43:12
misunderstood 34:2
mixing 58:3
morning 4:6,7
mounted 122:4
move 39:1,13,17 40:15
 41:24 65:13
moving 39:16
multi 75:10
multi-part 105:22
multiple 38:9,10 42:7
multiple-parts 41:2

N

name 4:8,15 50:4 117:6
narcotics 7:18
narrative 41:20,21
near 75:19 76:23 79:12
 98:24 99:2 100:18
nearly 37:8
necessarily 38:21 52:10
 67:10 88:24 89:1 112:14,
 18
necessary 20:2 22:12
 34:23 87:3,9
need 5:8 6:10 31:16 34:20
 35:2,7,18 58:25 59:10
 85:12 90:7 94:11,16 96:7
 103:3,4 109:23
needed 22:13,24 53:4
 59:16 77:4
needs 110:5
never 48:11 71:16 94:20
 115:23
night 62:23 71:20 80:9
 102:21 105:17
normal 17:24 51:12
notice 70:22
number 55:1 57:11 68:3
 70:17 88:10 99:15,16
 100:4
numbers 23:13
numerous 100:21 102:17

O

object 11:7 63:22,23,24
 64:22 91:23 100:22
objection 9:20,23 10:11
 13:1,9 14:2 15:8 17:1,8
 18:9 23:15,21 24:10,23
 25:8 26:4 27:12 28:3,20
 29:8 31:5,13,23 32:9,20
 33:2,22 35:4,9 36:3,13,24
 37:18 38:19 39:4,20

40:22,23 42:6,25 44:13
 48:16 49:16 53:5,17
 55:10,25 56:24 57:22
 58:13,18 62:2,16 66:13
 68:12 69:19,20 70:24 72:7
 74:13 75:4,22 76:25 77:12
 79:13 80:24 81:21 82:17
 84:13,24 85:2,13 86:10,25
 87:11,21 88:23 89:15
 90:13 91:4 97:22 99:4
 100:2,19 101:24 102:14
 104:4 105:7 106:7 111:4
 114:23 117:21 118:2,16
 119:10
observations 115:16
obstruction 42:18,23
obtain 94:3
obviously 51:15 72:9
 79:16
occasion 9:16 10:4 11:1
occur 100:6
offers 27:14
officer 7:6 9:17 11:21
 14:16 18:7 19:2 20:1 24:4
 27:19 28:1 31:4,22 32:5
 35:16 36:10,20 37:19
 38:24,25 39:2,12,19
 40:12,14,17 41:16,22,23
 42:22 45:8 52:7,8 53:13,
 14,24 55:24 56:5 57:15
 58:2,21 62:4,10 68:7,15
 69:3,6,21,25 70:14 71:2
 72:3 73:6,18 74:1,12
 75:14,15 80:22 82:21 85:5
 89:7,16 91:13 92:14 93:6
 97:20 100:6 102:11
 103:14,16,19 106:17
 107:13 108:9 109:14
 110:25 112:3,22,23
 114:21 116:2 117:19
officer's 17:23 29:16 34:6
 42:19 43:25 44:12 58:23
 73:4 74:8 89:10 92:12
 104:14 111:20,25 112:17
officers 8:11,14,16,19 9:18
 10:20,23 12:10,15 13:6
 16:1 20:9 22:15,19 23:3,
 20 26:19,23 27:7 28:9,11,
 13,17 29:6 30:22 32:18,22
 33:6,10 34:7,13 35:2 36:1
 37:16 38:9,12,17 45:20
 49:12 54:15 56:23 62:18
 63:4,17,19 67:2 69:17
 71:18,22 72:1 75:20 78:2,
 11,18 79:21 80:3,11 81:18
 82:25 88:20 89:13 91:19
 92:17 97:19,24 98:14
 99:21 101:19 103:3,21

104:23 107:1,7 109:21,25
 116:20 120:18 121:13,16,
 21
officers' 40:19 49:22
 51:20 54:8 57:17
oftentimes 35:12 102:20
oh 17:10 46:16,25 50:9
Ohio 6:23
okay 4:11,14,17,21,25
 5:23 6:1,11,24 7:10,16,22,
 24 8:1,5,8,15,18,20 9:10,
 13,16 10:3,7 11:1,13
 12:10,14,18 13:3,22
 14:13,22 15:2,24 16:4,14,
 20,23 27:5,17 18:2,5,17
 19:8,13,17,22,25 20:7,12,
 18,22,25 21:4,13,18,24
 22:3,11,14,18 23:1,3,9,18
 24:1,3,13,17,20 25:6 26:1,
 16,19,23 27:7,24 28:11
 29:14 30:5,11,19,21 31:2,
 19 32:3,13 33:2,17 34:2,
 18 35:2,15 36:1,20 37:3,
 10,16 38:3,15 39:14 40:7,
 11 41:19 44:6,9 45:19
 46:5,21 47:7,13,17 48:2,7,
 14,18,24 49:3,11 50:1,10,
 18 51:8,11,19 52:2,5,22
 53:2,10,21 54:7,21 55:6,
 17,19,21 56:5,9,17 57:4
 59:3,7,13,17,21,23 60:1,
 18,24 61:9,13 63:10 66:1,
 5,18,24 67:10,12,16 68:1,
 17 72:1 73:14,17,23 76:9,
 19 77:7,21 78:4,14,22
 82:5,13 83:8 84:3,11,21
 85:9,23 86:6,20 87:17
 88:4,11,15,19 89:9,22
 90:24 92:10 93:1,10,15,20
 94:3,6,11,25 95:6 96:9,13
 97:7,17 98:17,23 100:13
 103:7 105:4,20 106:1
 107:19 109:1 110:2,7,14,
 16,20,23 111:14 112:6,10,
 14,21 113:13 114:13
 115:20 117:1,19,25
 118:24 119:25 120:13,17,
 21,25 121:5,11,15,17,23
 122:1,6
once 11:7 19:14 98:25
one's 47:22
one-way 69:9
ones 30:3,9 82:11
open 36:22 40:13 91:14
opened 92:13
opens 39:11 41:22
opportunity 15:6 16:6

opposed 106:15
opposite 69:9 116:3
orange 66:8 78:7
oranges 58:4
order 38:22
ordered 122:14
orders 39:3 42:19
original 106:1
out-of-force 30:25
out-of-policy 30:25
outside 31:7 41:16 44:1
 48:21 73:6 74:9
oversight 97:2

P

packet 40:9 41:11,19 56:2,
 7,8,21 57:2,5,6 58:9,25
 59:5 63:16 76:2,6,10 81:2,
 4,13 89:17,18,19 90:21
 96:6 99:20 100:10,13,16
 101:7 113:17
page 54:25
pants 69:12 70:8 79:8
paper 53:12
paragraph 59:4
parameters 43:11
parked 78:22 79:3
part 23:14 24:2,7 27:21,25
 40:9 41:5 56:22 60:4,5,8,
 9,11 75:5 86:4 90:2,4
 91:10,25 99:24 104:9
 106:25 107:17 111:15
participate 13:18,22 25:21
participated 50:7
particular 43:6 44:21 46:3
 47:24 48:19,23 50:2,16
 51:2 54:5 79:17 88:25
 90:9,14 95:7 110:18
particularly 89:1
parts 65:2 75:12
passenger 61:24 62:13
 70:7 79:7,8
passengers 82:14
patrol 7:11,17,21,23
 120:13,19,20,22 121:8,9
patrolling 121:9
pending 6:6
people 30:24 31:20 70:16,
 17 73:1
perceptions 67:5 102:23
period 120:11
permitted 27:10 121:4
person 11:22 12:3 16:9
 29:7 36:10 39:13,15 40:16
 42:23 46:2,16 52:15

58:17,21 70:22 71:18
 73:7,14,20,21 74:4,25
 75:19 76:22 96:5 98:24
 108:19,24 109:15,16,17
 113:7 115:22 116:4,5
 117:20 119:6
person's 40:21 74:5 118:9
personal 6:9
personally 13:10 50:12,22
 52:14 120:4
pertains 86:2,3
pertinence 86:1
pertinent 85:16 89:3
Phillips 6:3 22:16 48:25
 50:8 55:20 61:12,23 62:12
 69:8,10,13,14 70:5 78:22
 79:5,9,12
Phillips' 49:7 56:14 62:13
 66:2 77:7
phrase 117:13 118:20
phrased 93:9
phrasing 14:9 99:25 118:5
 119:16
physical 29:6 116:21
physically 71:8
pickup 69:14
piece 53:12
pieces 103:5
place 68:10 70:16 84:19
places 7:12
play 27:19 56:9 59:23 60:2
 61:1,7,14,18 66:16,17
 67:13,15 70:6 77:15 98:3
 105:24
played 61:16,20 77:19
plays 63:5
please 4:8 30:12 45:13
pluralizing 62:18,19
point 8:15 51:21 64:25
 106:9 112:8
police 4:12,13 11:9,15
 15:14 23:10 24:14,21
 27:14 65:24 80:10 81:7
 107:13 119:1
policies 16:5 17:3,15,16
 24:8,24,25 26:22 30:1,17
 31:8,10,12,15 32:15,17,21
 33:1,4,13,14,15,19,20
 117:14
policing 38:1 99:8 101:16
 107:21
policy 15:17,21 16:3,4,8
 17:19 21:14 24:5 26:25
 29:15,24 30:7,18,23 31:7,
 24,25 32:5,10,23 33:6
 34:11,14,25 40:20 41:16

42:5,22 45:8 48:10 54:9,
 13 56:23 57:15,18 58:24
 59:2 64:15 65:9 73:6 74:9,
 11 89:10 93:7
portion 71:4
position 4:11
positions 7:10
possible 81:20
possibly 68:14
potentially 108:24
premise 91:5 102:15
preparation 5:17
prerogative 97:4
presented 57:2 59:5 65:15
 76:1,6
presenting 57:24 60:16
presumably 58:11
previously 59:24 61:8
principles 52:17
printout 55:15,23
prior 5:5 6:16 25:13 35:3,
 8 36:2 39:7 50:6
prisoner 57:12 116:17
probably 22:5 27:21 29:11
 64:25 95:24
problem 57:23 77:2
process 18:21 20:4 21:19
 45:25 51:12 85:20 90:5
 95:13
promoted 7:6,7
pronounce 50:4
proper 9:3 15:25 42:1
properly 34:14,22
protect 28:8,9 34:7
protected 33:10
provided 62:14 84:22
provides 97:1
public 34:8
pull 36:23 37:5
pulling 36:11
purpose 48:9
purposes 114:9
pursuant 26:17
put 47:10 78:12 85:4,10,
 16,17 88:21,22 99:21
 103:4 111:2 119:13,23
puts 97:25 114:21 116:2

Q

question 5:2,5,10 9:3 12:7
 13:16 22:21 32:13 34:5
 36:14,18 37:22 40:23,24
 41:1,2 44:9,21,24 45:6,11,
 13 52:13 53:10 59:7,10,18

62:1,6,15,21,25 63:8 64:4,18,22 65:2 67:11,22
69:20,22 70:20,25 71:12
72:8,23 74:14 78:8 80:19,
20 85:14 86:21 89:22
90:10,11,14 91:5,6,10,23
98:7 99:5,25 100:20
101:25 102:1,3,6,9,15
103:9 104:5,10,18 106:12,
15,17,20,21 107:5,11,12
108:2,3 111:15 115:21
118:24
question's 52:19
questioning 58:5
questions 22:12,15 42:7
49:14 52:1 63:19 64:9
65:1 69:17 74:17,21 75:3,
8,20 76:24 79:10 80:21
81:1,6,12 88:2 90:8
105:11 122:12
quick 35:12

R

race 63:12 82:13 84:20
103:25 107:9
races 70:17
radio 55:15,17 59:24 60:6,
23 61:10 62:11,20 63:1
65:11,13,18 66:6,12 68:5
70:4 71:4 72:13 78:19
89:24 99:9
radioed 78:1,3,11
random 12:2
ranks 7:4
Rarely 76:4,5
read 10:1,3,4,8 45:13,14
51:6,15 57:16 59:4 76:12
97:16 98:25 99:24 100:1
reading 76:19 81:13
really 14:3 25:2 36:17
65:1 67:23 68:4 83:12
84:4,5 113:9 117:14,17
realm 94:18 109:22 110:2
rear 66:11 69:8,10 77:10,
23 78:23 79:4
reas 104:1
reason 5:11 14:11,15
25:19 26:11 29:11 31:8,14
34:12 70:21 72:11 73:7,10
74:1 76:4 107:14 108:9,
12,16
reasonable 14:19 29:23
53:15,25 54:3 63:17 73:18
74:2,12 91:20 92:15,18
104:3 105:5 106:5 109:15
110:3

reasonableness 14:25
16:17 27:21 29:17 104:14
119:12,18 120:3,10
reasonably 105:19
reasoning 31:11
reasons 31:6
recall 24:13,16
receive 13:13 92:3
received 39:16 42:20 47:2,
11 56:16
receives 70:14
recess 61:4 122:9
recommend 10:2 98:15,16
recommendation 9:12
19:15 87:2,7 90:20 96:12,
16,24
recommendations 51:16
record 4:9 5:7 30:14 34:3
45:14 48:16 64:3 79:6
100:1 106:14
recording 61:14,23 67:13
68:6 78:21
recruiting 121:21
Rector 50:3
redoing 46:9
refer 51:23 88:9
reference 87:19,22
referenced 35:22
referred 117:16
referring 117:4,12
regard 98:18
regarding 16:8 17:22
regular 13:14 122:1
reinvestigation 46:6,8
relates 40:20
relations 121:20
rely 103:21
remarks 52:6
remember 5:4 6:7 22:14,
17 23:2 26:12 46:19 49:2,
3,4,5,8,9,18 52:4 54:5
64:24 90:18 119:25 120:5
remind 4:23
remiss 97:15
repeat 65:5
repeated 80:25
repeatedly 81:5
rephrase 14:3 17:19
report 25:14 26:3 58:3
60:9 76:12 81:18,19,22
82:2,4,6,16,19 83:1,5,12,
14,23 88:22 104:8 111:20
112:1,4,17 114:22 116:3
report's 81:23

routing 21:21 22:2,4,5
40:10 47:24 48:19 50:2,17
51:5,15 52:5 56:10 57:7
60:19 86:14,18 97:11
110:17,21
rule 53:1 85:24 117:2,11,
14 119:2
rules 31:16 38:1
run 37:13 55:15,17,23
60:23 61:10 67:2 68:8
71:5 72:14,15 86:3 88:21,
25 89:6 97:25 118:10
runs 97:24 121:9

S

save 88:14
saw 71:8,15,23 72:17 77:2
99:11 100:24 101:8
102:22 107:1 108:17
115:17
saying 18:23 36:15 37:6
43:20 50:21 60:15 69:3
73:25 74:2,10,12 78:17
80:13 101:3 102:21
113:10 118:20
says 21:10 38:25 39:1,11,
12 40:15 41:24 47:4 53:12
57:10 83:24 85:24 110:25
112:23
SCAT 7:18
scenario 42:13
scene 62:22 65:20 67:4
71:8,23,25 80:12,17 81:11
103:3 104:23 115:16,24
116:13,14,18 119:21
school 8:11 121:21
score 35:23
se 31:17
second 21:10 75:5
second-guess 71:7,13,22
72:19 99:11 107:1
seconds 61:15,19 68:10,11
69:7 70:2,13,15 77:16
118:1,15 119:14 120:2,11
section 7:23
see 24:8 49:21 51:19,22
72:17 76:20 80:1 81:9
87:20 90:21 96:21,22
102:25 121:17
seeing 60:4 63:4 71:3 80:6,
17 113:17 115:11
seek 101:1
seen 54:20
sees 116:20
send 22:22 53:15 59:11
97:5 113:4,23 114:6

sends 104:17
sense 113:3
sent 47:21
separate 49:1 115:9
September 8:2,3 26:10
58:16
serg 52:15
sergeant 7:6,11 43:3 46:12
50:3 65:16 117:7,10
118:18,19 119:15 120:6
sergeants 8:13
service 10:24 25:10
set 31:16 52:25
Seventeen 7:1
severity 27:18
sheet 21:21 22:2 40:10
47:25 48:19 50:3,17 51:5,
15 52:5 56:10 57:7 86:15,
18 97:11 110:17,22
sheets 22:4,5
shirt 102:25 103:1
short 101:19
shorts 66:8 78:7 101:18
showed 88:5
side 40:14 69:9 73:25
78:25 79:4
sign 94:12 96:9 97:7,10
98:15
signature 21:9 122:13
signing 97:11
silly 30:20
simpler 88:13
simply 34:10
sirens 68:8
sitting 74:20
situation 9:15 27:17 28:18
29:21 32:8 38:2,4 42:16
43:8 64:1 65:23 66:2 77:2
79:11 98:1 105:2,10,13
107:3 120:9
situational 117:23 118:7
situations 32:19 35:3
size 35:20
skirt 101:20
slash 57:12
social 6:23
solely 106:18 107:6,7,14,
20
somebody 36:9,23 37:5
39:11 58:10 76:7 99:2
108:9,17 118:1
someone's 16:2,7 29:10
something's 65:8
sorry 21:24 29:19 34:2
46:7 50:16,25 55:8 62:11
78:1 89:25 90:1 115:6
121:16
sound 30:20
sounds 111:7
source 104:7
sources 65:19
South 7:17
space 88:14
speaks 32:10
specific 45:6 64:10 66:1
82:8 107:3,12
specifically 12:4 59:19
74:24
spectrum 72:24 73:1,18
spectrums 73:24 74:3
speculation 63:23
spell 4:15
sprayed 58:10
staff 114:9
standard 16:24 27:4,8
standards 26:20
start 58:11 67:2
started 7:3 43:20
starts 55:1
state 4:8 6:23 118:9
stated 45:16 114:6
statement 18:22 53:13,14
58:22,23 115:24
statements 49:15,24 51:20
56:6 57:17 62:10,11
116:13
statistics 23:9
step 36:8,9,11,15,22 37:11
stop 10:8 12:2,11 13:25
14:10,16 15:3,25 17:18,22
18:11 28:19 44:19 56:14
63:18 64:16 69:18 72:3,
11,25 74:1 75:15 79:20
81:20 91:2,7,20 95:1,22,
23 97:20 100:14,15
102:11,19 103:13,14,16,
20 104:2,14,22,24,25
105:5,19,24 106:3,5,18,24
107:13 108:9,10,16 109:3,
13,23 113:2,3 114:3
121:1,4
stop's 37:14
stopped 11:4,22 56:18,19
63:11,21 73:7 74:3,10,22
75:21 76:7,20,23 90:24
91:17 92:14 108:16
stopping 13:8 16:8 70:22
93:6
stops 9:18 10:21 12:24
18:8 40:2 82:21 100:6
101:19 109:14

strategic 7:19 8:4 121:6,11
street 12:3 14:17 69:9
 72:4,25 73:2,8,25 74:7,25
 75:2,16 76:7 79:2 99:17
 101:18,20 103:14,15
 120:14
streets 98:1 99:13
style 52:25
subject 45:3 50:17 57:10
 58:16,17
subjects 61:25
subparts 102:5
Sullivant 55:18
summaries 84:7,9
summary 83:18,25 84:1,
 10,11 86:5
supervision 97:2
supervisor 81:14 87:3,14,
 17 112:7,12 113:2,14
 115:1,3,14 116:10,19
supervisor's 65:16 112:12
supervisory 46:12
supposed 81:19 119:8
Supreme 13:12
sure 5:6 8:20 18:23 28:15
 29:1,18 30:19 33:17
 34:12,14 37:23 48:11,16
 55:14 64:24 66:20,21
 67:20 68:3,4 82:18 83:11
 84:4,5,15 91:10 93:3
 102:19 108:6 117:12,15
 118:4
surrounding 12:24 37:15
 56:13 85:6
sus 84:17 110:23
suspect 28:5,8,9,19 35:19,
 20 39:1,2,7 41:22,23,24
 42:20 45:20 63:10 67:14
 70:7 82:14 84:12 100:17
 110:9,23 112:9,16,21
 114:19 115:6,22 116:19
 118:14,25
suspect's 27:16 41:22
 70:12
suspects 62:12 63:14
 65:12 70:4 77:22 78:4
 84:14,18
suspects' 119:21
suspicion 14:19 63:17
 73:18 74:12 91:20 92:16,
 18 106:5 109:16 110:4
suspicions 73:20
Suzanne 4:1,10 21:11
 122:17
sworn 4:2 13:20 121:13

system 88:13

T

tactics 119:15
take 5:10 35:16 37:7,8
 51:11 61:3 63:6 72:14
 80:3 94:9 103:4 110:2
 114:9
taken 4:18 61:4 80:7 122:9
talk 6:6 16:11 50:21 52:14
 73:19 93:25 112:7,8
talked 6:2 95:11 120:3
talking 11:11 42:12 44:2,
 15,17 46:18 53:18 62:17
 76:3 79:15 82:1 83:3,4,6,
 11,15 87:23 107:2 113:18
tape 40:8 99:1
tapes 22:8
Tasers 26:13
task 7:19
taught 13:23,25 27:7
teach 10:20
teaches 117:15
techniques 28:14,16
tell 21:18 32:17 72:16 74:2
telling 68:17,24
tells 32:5 41:23
term 81:23 118:6 120:8,15
terminology 119:16
testified 62:4 68:7,15 69:4,
 6 100:5 104:21 105:9,14
 115:1 118:5
testimony 10:15 11:8,13,
 14,19 15:11 43:3,10 49:22
 52:8 69:22,25 105:8
 106:9,16
Thank 4:17 109:12
thing 13:13 14:24 17:15
 26:18 35:1 39:7 74:6 76:5
 79:11 86:19 99:1 100:17
 101:3 106:4 107:6 118:21
things 9:8 25:2 26:15
 35:23 40:1 44:7 48:12
 63:20 65:14,20 67:3 70:23
 80:6 82:7,15 87:25 103:2
 105:23,24,25 121:20,22
think 7:25 10:15 11:10
 15:10 24:2 28:25 35:11,
 12,23 46:16,23 48:15 54:3
 93:8,22 98:8 102:18 122:7
Thirty-three 6:14
thorough 86:24 96:20
thought 85:20 109:10
threat 35:8

three 7:8 40:25 51:20
 117:13 118:1,15 119:14
 120:1,10
three-second 117:2,11,13
 119:2 120:5
throwing 91:25
time 24:18 25:1 26:2,10,
 12,14 37:17,19,20,24
 38:10 39:10,12,24 66:21
 67:5,7,8 70:14 80:6 87:18
 102:5 109:16 111:19
 112:1 119:23 120:11,25
times 10:6 33:3 40:25
 52:14 63:3 67:1 75:24
 90:15 100:21 101:10
 102:17 104:19,21 106:13,
 22
title 116:15
titles 83:18
today 5:11,18 74:21
told 39:7 117:17 119:14
 120:4
top 57:7
totality 16:21 27:17 35:18,
 24 39:6,22 40:4 42:14
 65:9 71:3 77:1 81:8
 112:11
tough 36:14 39:5
traffic 121:1,4
trained 12:10,23 13:6
 25:23 28:13,17,21 29:6
 37:10 84:7 85:10 117:25
 118:14 119:8
trainer 117:5
training 10:22,24 12:1,14,
 15,18,25 13:11,20,24
 24:5,8 25:6,9,10,12,19,24
 26:1,3,11,13 28:12,25
 72:2 84:10,11 107:13
 120:1,9
trainings 12:23 13:19,23
 25:22
transpire 108:21
trial 4:22 6:10 49:22
truck 69:14 77:8
true 70:10,11
trust 101:11
truth 68:18,25
try 4:23 39:24
trying 90:4 101:15 103:9,
 18 109:11 121:17
turn 22:24 54:22 55:3
turns 82:23
two 39:16 51:20 66:7,9
 73:24 74:3 78:4

type 14:18,20,24 16:19
33:5 53:7 92:2 93:13
95:18 118:10
types 95:21
typically 9:6 53:7 89:17
90:6

U

Uh-huh 14:8 19:1 29:25
32:6,14 41:4,10,13 47:3
48:20 57:13 75:11 76:11,
15,18 78:24 79:1 82:24
90:25 96:14,17 99:18
100:8 104:12 113:21
114:17 116:1
uh-huhs 4:22
uh-uhs 4:22
ultimately 96:5 98:13
unclear 92:11 94:1
unconstitutional 10:10
underlying 105:12
understand 5:1 8:20 12:7,
9 13:3 14:6 32:2 33:18
41:1 45:23 65:7 71:11
74:22 81:7,8 90:4 93:1,3
98:10 99:15 101:14,15
102:2 107:8,9 119:13
understanding 108:2
119:4
uniform 122:1,3,4,5
unit 8:13
units 7:15 8:10,12 121:22
University 6:23
unknown 66:10 77:10,13,
23
unnecessarily 31:21
updated 12:19
updates 12:20 13:11,13
25:10
use 5:21 11:22 19:25 20:9,
23 21:14 23:4,10,19 24:3,
22 26:20 27:4,10,15 28:2,
6 29:6,11,14,16,20 30:17
33:20 34:6,20,23 35:17
44:20 48:5,21 54:15,18
56:11,14,20 57:10,16,20
59:1,8,19 62:5 64:15,19
90:12 110:8,11 111:23
113:2,16,20 114:4,5,11,12
115:2,12 116:16 117:2
118:6
use-of-force 30:7,18
31:10,11,14 32:5,15,17
33:1,19 42:9 44:15 49:24
57:24 58:3 60:9,11 87:9
88:5 111:6,10,21 112:4,17

114:21 116:3,11
use-of-mace 92:23 111:10
116:11
uses 20:17 21:2 30:25
32:21,22 33:4,7,15 64:7
89:16 112:3

V

vague 81:22
vagueness 74:14
variable 107:9
variables 67:8 72:19 80:10
81:15 98:2 99:16 100:5
105:10 119:22
variety 18:10
various 8:10 23:24 27:18
34:15 65:19 117:23
vehicle 66:10 69:15 77:10,
13,23
version 114:19,20
vicinity 72:5 101:21
103:17,23 104:15,24
105:4,6,16,19 106:3,6,18,
24 107:8,15,17 108:10,19
109:5,6,14
video 5:23 40:9 41:20,21
51:17 70:6 76:14 99:1
videos 49:6
violated 11:18 15:17 57:15
violating 16:1
violation 11:5 16:8

W

waist 80:8
walking 12:3 14:17 72:4,
25 73:8,25 75:16 101:18
want 14:11 17:10 30:22,24
31:7,20,25 33:17 34:3,22
35:15 41:5 48:16 66:16
83:20 87:20 91:18 92:16
93:22,23 95:3 102:2 112:8
122:13
wanted 73:15 88:17
wants 36:20
wasn't 48:2 67:10 71:25
72:16 77:9 120:7
watch 49:6 76:14 99:1
way 52:19 57:18 65:24
114:7
ways 18:10,15 44:8 103:9
108:3,18
we'll 5:6 6:9 16:4
we're 5:10 15:18 25:9
44:15,17 57:23 60:4,20

62:17 94:24 107:1,2
113:18 118:20 121:7,8,9
we've 10:15 11:7,13 15:11
26:13 30:3 43:2 75:14,23
79:5 81:1 105:14
wearing 80:8
went 52:6 102:4 104:5
110:17 112:25 120:5
whatsoever 70:19 72:6
73:10
white 66:7,9 69:11 70:7,8
78:5,6 79:7 87:25 101:5,
19,22 102:22
witness 4:2 64:12 67:19
106:15
woman 68:14 69:11 70:8
78:5,7 101:17,19,22
word 9:25 11:22 86:2 98:5
107:20
words 17:5
work 6:23 25:20 27:14
65:24 80:11
worked 7:17,18 48:12
works 23:5 65:25
wouldn't 19:8 86:19 92:25
95:23 108:15 111:9
wrap 66:8 78:7 79:8
wraps 80:7
write 81:18 84:5,6 112:4
writing 52:11
written 56:6 113:1
wrong 72:3 97:21 115:21
wronged 115:7
wrote 49:23

Y

yeah 17:12 50:20 55:14
59:11,20 65:4 67:23 73:13
75:7 82:18 84:19 90:1
103:11 111:7 113:19
121:13,19,20
years 6:14 7:1,7,8 16:10
26:14 120:6
Yep 47:6
Yesterday 117:5